

ATTACHMENTS
SECTION "A"

11/02/2006 11:57 13026596687

LEGAL SERVICES

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Disciplinary#
1014567DCC Delaware Correctional Center
Smyrna Landing Road
SMYRNA DE, 19977
Phone No. 302-653-9261

Date: 11/27/2004

18C L 8

DISCIPLINARY REPORTDisciplinary Type: Class1Housing Unit: Bldg 18IR#: 1017887

SBI#	Inmate Name	Inst. Name	Location Of Incident	Date	Time
00253918	Hopkins, Shane K	DCC	Bldg. 22 A Tier	11/26/2004	15:00

Violations: 1.02/200.201 Assault, 1.06/200.203 Disorderly or Threatening Behavior, 2.06/200.108 Failing to Obey an Order,
2.13/200.111 Possession of Non-Dangerous Contraband

Witnesses: 1. Smith, Joe2. N/A3. N/A**Description of Alleged Violation(s)**

On November 26, 2004 I C/O Pusey, John And C/O Smith, Joe Were Transferring Inmate Hopkins, Shane Sbi #00253918 From A110- To Au12 Because Of A Clogged Toilet. I C/O Pusey Noticed That I/M Hopkins Had In Excess Of Books In His Possession An Started To Shakedown His Cell A110 While I/M Hopkins Was Transferred To Au12. I C/O Pusey Then Confiscated And Bagged Up A Of I/M Hopkins Belongings And Took Them To Him In 22au12. I C/O Pusey Had Au12 Cell Door Opened To Hand The Property Ove To I/M Hopkins. I Then Told Him That The Allowable Items Were In His Bag, At This Time I/M Hopkins Became Agitated And Starte To Come Out Of His Cell. I Placed My Hand Up To Stop Him And He Pushed My Hand Out Of The Way And Shoved Past Me B Pushing Me In The Chest Area. I Then Grabbed Him To Secure Him And Then He Began To Resist. I Then Notified C/O Smith Wh Was On The Tier To Help Secure Him, We Then Placed I/M Hopkins On The Ground And Called For Backup. I/M Hopkins Continue To Resist And Sgt. Outen, Clifton Sprayed I/M Hopkins To Help Secure Him. I/M Hopkins Was Handcuffed And Secured, The Removed From The Tier And Transported To Mhu 24 Classroom #2 And Was Seen By Medical Nurse Betty And Refused Medic Treatment. I/M Hopkins Excessive Books Were Confiscated And Inventoried As Evidence. I/M Hopkins Was Advised That He Woul Be Receiving A Mab Write-Up For His Actions And Transferred To Bldg #18 Isolation.

Reporting Officer: Pusey, John E Jr(Correctional Officer)**Immediate Action Taken**Immediate action taken by: Pusey, John E Jr-Correctional Officer

I/M Capfoamed, I/M Secured, I/M Seen By Medical, I/M Advised Of Mab Write-Up, Accomplished 404, 122 And 537

Offender Disposition DetailsDisposition: N/ADate: N/ATime: N/ACell secured? NoReason: N/A

Disposition Of Evidence: All Evidence Secured And Forwarded To Shift Commander

Approval InformationApproved: ☒ Disapproved: ☐ Approved By: McCreanor, Michael (Shift Commander - Large Inst.)Comments: N/A**Shift Supervisor Details**

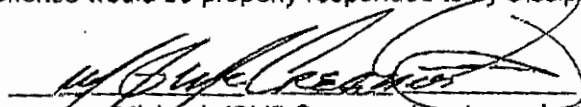
Date Received:

Time:

Received From: **Shift Supervisor Determination:**

☐ Upon reviewing this Disciplinary Report, I conclude that the offense may be properly responded to by an immediate revocation of the following privileges(see reverse side) for _____ hours not to exceed 24 hours)

☒ Upon reviewing this Disciplinary Report, I conclude that the offense would be properly responded to by Disciplinary Hearing


 McCreanor, Michael (Shift Commander - Large Inst.)

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LEGAL SERVICES

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DR #
1014367

Date: 11-26-04

DCC Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

NOTICE OF DISCIPLINARY HEARING - FOR MINOR/MAJOR OFFENSE

To: Inmate: HOPKINS, SHANE K. SBI#: 00 253918 Housing Unit: 22

1. You will be scheduled to appear before the Hearing Office to answer charges pending against you. (Staff are to explain the charges as listed on the 122).

2. At that time, a hearing will be held to determine whether you violated Institutional Rule(s) as alleged in the attached Disciplinary Report.

How do you plead?

☐

Guilty

☒

Not Guilty

3. A "Minor Offense" is a rule violation in which the extent of the sanction to be imposed shall be restricted to:

a. Written Reprimand.

b. Loss of one or more privileges for a period of time of more than 24 hours but less than 15 days.

4. A "Major Offense" is a rule violation in which the extent of the sanction to be imposed shall be restricted to:

a. Loss of one or more privileges for a period of more than 15 days but less than 60 days.

b. Confinement to assigned quarters for a period of time not to exceed 30 days.

c. Isolation-confinement for a period of time not to exceed 15 days.

d. Loss of good time for a period of time not to exceed 30 days. (Forfeiture of accumulated good time shall be subject to the approval of the Commissioner or his designee.)

5. You have the rights in the disciplinary process as stated on the lower and back of this page. These have been fully explained to you at the time of this notification.

6. Counsel requested? ☒ Yes

☐

No

Name of Counsel: CHRIS DESMOND

7. Confront accuser? ☒ Yes

☐

No

8. Witness requested? ☒ Yes

☐

No

Name of Witness: MARTIN ROBERTSWILLARD CHEATWOODCURTIS BROWN

I certify that on 11-26-04 at 1705
(Date) (Time)

I served upon the above inmate this notice of Disciplinary Hearing for Minor/Major Offense and the Disciplinary Report is attached hereto.

[Signature]
(Employee's Signature & Title)

I have received copies of 122 & 127 and understand my rights as Form #127 has been read to me.

[Signature]
(Inmate's Signature)

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LEGAL SERVICES

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Incident#
017887DCC Delaware Correctional Center
Smyrna Landing Road
SMYRNA DE, 19977
Phone#: 302-653-9261

Date: 04/27/2006

INCIDENT REPORT

Group#: 1280	Type: Inmate Involved	Incident Date: 11/26/2004	Time: 15:00	Confidential: No
Facility: DCC Delaware Correctional Center	Followup Required: No			
Associated Disciplinary Report #(s) 1014567				
Incident Location: Bldg. 22 A Tier				
Location Description: MHU22 AU12				
Isolated Conditions: 1.02/200.201 Assault				
1.06/200.203 Disorderly or Threatening Behavior				
2.06/200.108 Failing to Obey an Order				
2.13/200.111 Possession of Non-Dangerous Contraband				
Description of Incident:				
On November 26, 2004 I/O Pusey, John and I/O Smith, Joseph were transferring I/M Hopkins, Shane SBI #00253918 from AL10 to AU12 due to the toilet being clogged in cell AL10. I/O Pusey noticed that I/M Hopkins had an excessive amount of books in his possession and began to shake down his cell AL10 while I/M Hopkins was transferred to AU12. I confiscated and bagged up all of I/M Hopkins' belongings and took them to him in 22AU12. I had AU12 cell door opened to hand the property over to I/M Hopkins and told him that the allowable items were in his bag and that two books were being confiscated cause he was in excess. I/M Hopkins became agitated and started to come out of his cell; I placed my hand up to stop him and he pushed my hand out of the way, shoving past me by pushing me in the chest area. I then grabbed him to secure him and he began to resist. I then notified I/O Smith who was on the tier to help secure him, we then placed him to the ground and called for backup. I/M Hopkins was still continuing to resist and Sgt. Outen, Clifton sprayed I/M Hopkins to help secure him. I/M Hopkins was handcuffed and secured, I/M Hopkins was removed from the tier and transported to MHU Bldg #24 classroom #2 and was seen by medical nurse Betty Bryant and refused medical treatment. I/M Hopkins excessive books were confiscated and inventoried as evidence. I/M Hopkins was advised that he would be receiving a MAB write-up for his actions and transferred to Bldg #18 Isolation.				
Injured Persons		Hospitalized	Nature Of Injuries	
Shane, Hopkins I/M		No	Superficial Abrasions	
Evidence Type: 2 Extra books		Date Collected: 11/26/2004		
Discovered By: John, Pusey I/O		Secured By: John, Pusey I/O		
Type of Force Used <input checked="" type="checkbox"/> PHYSICAL <input type="checkbox"/> CHEMICAL <input type="checkbox"/> STUN <input type="checkbox"/> OTHER <input checked="" type="checkbox"/> CAPSTUN <input type="checkbox"/> NONE				
Restraints Used : handcuffs and shackles				
Immediate Action Taken:				
I/M secured, I/M seen by medical, I/M advised of MAB write-up, evidence secured, accomplished 122, 404, and 537				
Individuals Involved:				
Person Code	Name	SBI#	Title	
Staff	Clifton, Outen S	N/A	CO Corporal/Sgt. - Large Inst.	
Staff	Joseph, Smith E III	N/A	Correctional Officer	
Staff	John, Pusey E Jr	N/A	Correctional Officer	
Inmate	Shane, Hopkins K	00253918	N/A	
Reporting Officer: Pusey, John E Jr (Correctional Officer)		Entered By: Pusey, John E Jr (Correctional Officer)		
Approval Information:				
<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Disapproved Date: 11/26/2004 Approved by: McCreanor, Michael (Shift Commander - Large Inst.)				
Comments: N/A				

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LEGAL SERVICES

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Incident#
017890

DCC Delaware Correctional Center
Smyrna Landing Road
SMYRNA DE, 19977
Phone#: 302-653-9261

Date: 04/27/2006

INCIDENT REPORT

Group#: <u>1280</u>	Type: <u>Inmate Involved</u>	Incident Date: <u>11/26/2004</u>	Time: <u>15:00</u>	Confidential: <u>No</u>
Facility: <u>DCC Delaware Correctional Center</u>		Followup Required: <u>No</u>		
Incident Location: <u>Bldg. 22 A Tier</u>				
Location Description: <u>A Upper 12</u>				
Isolated Conditions: <u>1.02/200.201 Assault</u>				
<u>1.06/200.203 Disorderly or Threatening Behavior</u>				
<u>2.06/200.108 Failing to Obey an Order</u>				
<u>2.13/200.111 Possession of Non-Dangerous Contraband</u>				
Description of Incident:				
On Friday November 26, 2004 @ approx 1500 hrs after a routine shakedown of I/M Hopkins, Shane (00253918), I/M Hopkins allowable property was being taken to him by C/O John Pusey. I (Smith) witnessed I/M Hopkins push C/O Pusey in his chest trying to get by him. C/O Pusey then grabbed I/M Hopkins and began to wrestle him to the ground. I (Smith) came to the aid of C/O Pusey and helped secure I/M Hopkins on the ground. I/M Hopkins continued to resist and was cap foamed by Sgt Clifton Outen. I/M then became less combative and allowed staff to hand cuff him. I/M was taken to bldg 24 classroom and seen by medical (Nurse Betty Bryant). I/M Hopkins refused treatment. **end of report**				
Injured Persons		Hospitalized	Nature Of Injuries	
Shane, Hopkins K		No	See Medical Report	
Evidence Type: <u>N/A</u>		Date Collected: <u>N/A</u>		
Discovered By: <u>N/A</u>		Secured By: <u>N/A</u>		
Type of Force Used <input checked="" type="checkbox"/> PHYSICAL <input type="checkbox"/> CHEMICAL <input type="checkbox"/> STUN <input type="checkbox"/> OTHER <input type="checkbox"/> CAPSTUN <input type="checkbox"/> NONE				
Restraints Used : <u>Handcuffs</u>				
Immediate Action Taken:				
I/M pepper foamed, I/M secured, I/M seen by medical, Back up 404 report accomplished				
Individuals Involved				
Person Code	Name	SBI#	Title	
Staff	Clifton, Outen S	N/A	CO Corporal/Sgt. - Large Inst.	
Staff	John, Pusey E Jr	N/A	Correctional Officer	
Staff	Joseph, Smith E III	N/A	Correctional Officer	
Inmate	Shane, Hopkins K	00253918	N/A	
Reporting Officer: <u>Smith, Joseph E III(Correctional Officer)</u>		Entered By: <u>Smith, Joseph E III(Correctional Officer)</u>		
Approval Information				
<input checked="" type="checkbox"/> Approved <input type="checkbox"/> Disapproved Date: <u>11/26/2004</u> Approved by: <u>McCreanor, Michael (Shift Commander - Large Inst.)</u>				
Comments: <u>N/A</u>				

Appendix K1

DELAWARE CORRECTIONAL CENTER

TO: Inmate: Hopkins, Shane K.
FROM: Shift Commander: Capt. Michael McCreanor
DATE: November 26, 2004
SUBJECT: Administrative Transfer

SBI: #00253918

The undersigned believes that you warrant confinement to a more restrictive setting based upon Information presented. Consequently, pending review, you are hereby temporarily, administratively Transferred to:

☐ Protective Custody

200.108

Failing to Obey an Order

200.111

Poss. Of Non-Dangerous Contraband

200.203

Disorderly and Threatening Behavior

☒ Pre-Hearing Detention

200.201

Assault

Offense No.

Offense Title

☐ Higher Security
Signature of Shift Commander

Attach Supporting Documents/Forms i.e.: 404, 537, I/M statement, etc.

Copy to: Security Superintendent (original)
Institutional Investigator
Classification
MDT Chairperson
Transfer Office
Temporary Housing Counselor
Classified Housing Counselor
File

>H

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LEGAL SERVICES

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DEPARTMENT OF CORRECTION
Bureau of Adult Correction
Delaware Correctional Center

FORM #: 138
(F. and B.)

REPORT OF USE OF FORCE, CHEMICAL AGENTS AND/OR APPLICATION OF RESTRAINTS ON INMATES.

(Note: Do not complete this report for the general use of restraints in the routine movement or transfer of an inmate).

1. To: Warden Thomas Carroll 2. From: (Title, Name) Capt. Michael McCreanor 3. Date: 11/26/04

4. Inmate Name Shane K. Hopkins 5. Institutional Number 00253918

6. Use of force, chemical agents and / or application of restraints was ordered by: Sgt Clifton Outen(Capstun)/Officer John Pusey (Physical Force)

8. Reason (s) for use of force, chemical agents and / or application of restraints:

- | | |
|--|---|
| a. <input checked="" type="checkbox"/> Displaying signs of imminent violence | e. <input type="checkbox"/> Administer Medication |
| b. <input type="checkbox"/> Attempting suicide / suicide precaution | f. <input type="checkbox"/> Destroying state property |
| c. <input type="checkbox"/> Admit / return to Isolation | g. <input checked="" type="checkbox"/> Prevent injury to self / other |
| d. <input checked="" type="checkbox"/> Assaultive | h. <input type="checkbox"/> Other |

9. The inmate was placed in (X) hard, () soft restraints.

10. An Incident Report (X) is, () is not being submitted.

11. The inmate () was, (X) was not medicated. If was, specify medication.

12. Chemical agent (X) was, () was not used. If used, by whose authority?
Type of chemical agent used: CapFoam

13. Inmate (X) was, () was not examined. If examined, who examined the inmate?
Nurse : Nurse Betty Bryant

14. Staff members involved were : Sgt Clifton Outen, Officer Joseph Smith, Officer John Pusey

15. Explanation of incident and your participation: (Be specific and detailed. How was force used, by whom, ect. Use reverse side of form to fully document events). See Section 17

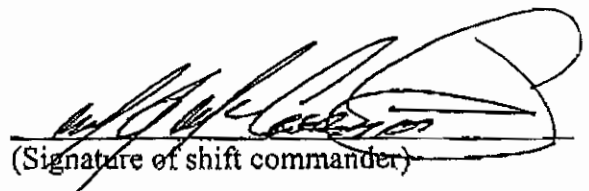
16. Injury to Inmate: (X) yes, () no, type of injury / treatment given: See attached medical report

Injury to Staff: () yes, (X) no, type of injury / treatment given:

Medical Staff performing treatment: Nurse Betty Bryant

17. Continuation of any item. List by number and then continue narrative.

On 11-26-04 at approx. 1500 hrs. Officer Pusey and Officer Smith, Joseph were transferring Inmate Hopkins, Shane SBI 00253918 from Bldg #22 AL10 to AU12 because of a clogged toilet. Officer Pusey noticed that Inmate Hopkins had an excessive amount of books in his possession. Officer Pusey conducted a shakedown on Inmate Hopkins property while he was transferred to AU12. Officer Pusey then confiscated and bagged up his property and took it to him in cell AU12. Officer Pusey had AU12 cell door opened to hand the property over to I/M Hopkins. Officer Pusey informed I/M Hopkins that the allowable items were in his bag; at this time I/M Hopkins became agitated and started to come out of his cell. Officer Pusey placed his hand up to stop I/M Hopkins from departing the cell; I/M Hopkins then pushed Officer Pusey's hand out of the way and shoved past him by pushing him in the chest area. Officer Pusey then grabbed I/M Hopkins to secure him; I/M Hopkins became resistive at this time. Officer Pusey then advised Officer Smith who was on the tier that his assistance was needed; Officer Smith then called for back up. Officer Pusey and Smith then placed I/M Hopkins on the floor and back up arrived. I/M Hopkins was still resisting and Sgt Outen, Clifton used pepper foam, I/M Hopkins then became cooperative and he was handcuffed. I/M Hopkins was then removed from the tier and transported to Bldg #24 classroom #2 where contact was made with Lt. Yoder. Lt. Yoder flushed I/M Hopkins eyes and I/M Hopkins was seen by Nurse Betty Bryant for his minor injuries and refused other medical treatment. I/M Hopkins excessive property was inventoried and I/M Hopkins was advised that he would be receiving a MAB write-up.


(Signature of shift commander)

Appendix 'G'

Incident Report Number: _____

GAS USE REPORT

Time: 1515 Date: 11-26-04 Day: Friday

Officers using gas: Sgt. Clifton Outen

Type of gas used: Name: Capstur (Pepper Foam) Time used: 1515

Point of Contact: Face

Did gas assist in controlling the inmate? Yes _____ No X

Was more than one blast used at one time? Yes _____ No X

Officer injuries? Yes _____ No X

Name of injured officer (s): _____

Name of inmate (s) _____

Gas activated upon: Shane K. Hopkins / 00253918

SBI Number

Inmate injuries? Yes X No _____

Was inmate seen by medical personnel? Yes X No _____

Signature of Medical personnel: Nurse Betty Bryant

Date: 11-26-04 Time: 1545

Signatures: _____

Reporting Officer: Sgt. C. Outen Date: 11/26/04

Shift Commander: [Signature] Date: 11-26-04

Security Superintendent: _____ Date: _____

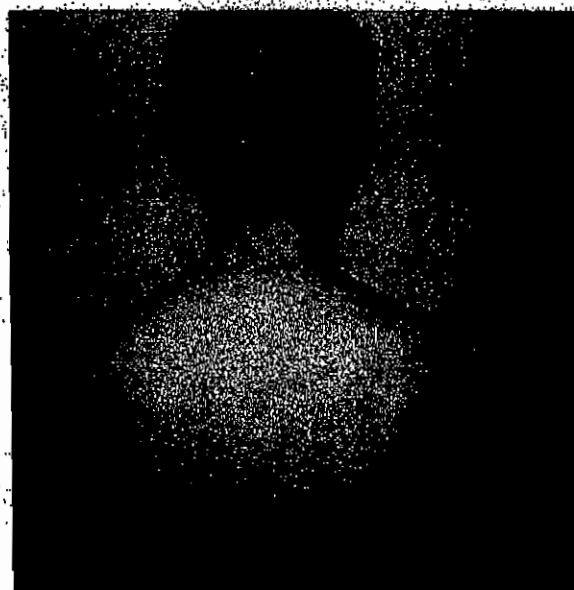
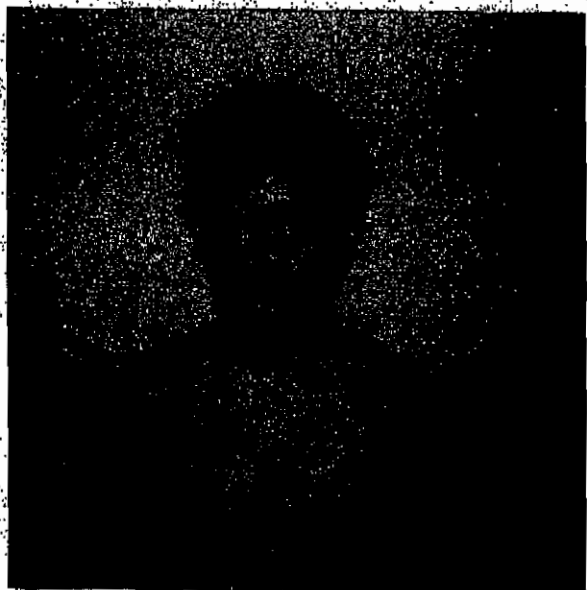
ATTACHMENTS

- | | | |
|------------------------|--------------|----------|
| 1. Use of Force | Yes <u>X</u> | No _____ |
| 2. Incident Reports | Yes <u>X</u> | No _____ |
| 3. Disciplinary Report | Yes <u>X</u> | No _____ |

INTERDISCIPLINARY PROGRESS NOTES

DATE	TIME	DISCIPLINE	NOTES SHOULD BE SIGNED WITH NAME AND TITLE
11/20/04	1545		<p>Called by security to assess Tim O. Ading involved in a code. Patient to have been sprayed in encounter. Patient superficial abrasions @ back and left shoulder about 10cm. Also noted bruising to top of left ear. Superficial scratches also noted to neck. Open area to bridge of nose. Odema, bruising scratches to forehead and abrasions hair line @ side of face. Presently won't open eyes. Eyes flushed & milk by building up. Under of numbness of digit @ hand. Note capillary refill 2-3 sec. VS - 131/92 P-118 R-16 Sp sat @ 97% via pulse ox. All was cleaned & VS. Refused to have triple antibiotic ointment placed to areas. Attempts made to continue repress. Ultrasound of carpal tunnels. Supra wrist to Rt. Ulnar. Continued refusal to open eyes.</p>
<p>NAME-Last First Middle</p> <p>Hankins Shane</p>			<p>Attending Physician</p> <p>Record No.</p> <p>Room/Bed</p>

IM SHANE HOPKINS #253918 11-26-04 1600Hrs
PHOTOS BY Lt. VODER



DR #
1014567

Date: 12/9/04

DCC Delaware Correctional Center
1181 Paddock Road
Smyrna, DE 19977

DISCIPLINARY HEARING DECISION

☒ Class I (Major) ☐ Class II (Minor) ☐ Summary (24 Hour LOAP)

Inmate: Hopkins, Shane SBI#: 00 253918
Institution: Delaware Correctional Center Hearing Date: 12/9/04 Time: 0850

Inmate Present: ☒ Yes ☐ No

Reason (If No):

Violation: 200.201 Assault 200.203 DFB 200.105 PTO 200.111 PND
Inmate Plea: Not guilty
Inmate Statement: I didn't threaten or assault anyone. I had
two witnesses back then that can't. They grabbed me and put me
in choke hold & Smith hit me repeatedly.

Witness Name:

Testimony:

Witness Name:

Testimony:

Witness Name:

Testimony:

Decision: ☒ Guilty ☐ Not Guilty ☐ Further Investigation

Rational: During confrontation in Pury, Smith was sitting & assault
happened as he reported. Per report was confrontation
in all plain guilty.

Sanctions: 15 days isolation currently being kept
Hearing Officer's Signature: [Signature]

I understand that I may appeal the decision of the Hearing Officer (or Shift Supervisor in the case of a Summary Sanction) to the Commissioner of Correction or his designee. I must complete a Disciplinary Appeal Form within 72 hours immediately following the hearing and mail it to the DCC Hearing Office.

☒ I do intend to appeal.
☐ I do not intend to appeal.

Inmate unable to sign appeal
in time.
Inmate's Signature

ORDER TO IMPLEMENT SANCTIONS

☐ Inmate does not wish to appeal ☐ Appeal has been denied by Commissioner or Designee
☐ Sanctions have been modified ☐ Time Limit (72 hours since hearing) for appeal has expired

Modifications:

It is hereby ordered to implement the sanctions or modified sanctions on Date: Time:

DR#
 1014567

DCC Delaware Correctional Center
Smyrna Landing Road
SMYRNA DE. 19977
Phone No. 302-653-9261

Date: **12/14/2004**

DISCIPLINARY HEARING DECISION

Inmate : <u>Hopkins, Shane K</u>	SBI#: <u>00253918</u> Type: <u>Class 1</u>
Institution: <u>DCC Delaware Correctional Center</u>	Hearing Date: <u>12/09/2004</u> Time: <u>09:50</u>
Inmate Present: <u>Yes</u> Reason(if No): <u>N/A</u>	
Violation: 1.02/200.201 Assault, 1.06/200.203 Disorderly or Threatening Behavior, 2.06/200.108 Failing to Obey an Order, 2.13/200.111 Possession of Non-Dangerous Contraband	
Inmate PLEA: <u>Not Guilty</u>	
Inmate Statement: Didn't threaten or assault anyone. I had two library books they don't count. Pusey grabbed me and put me in choke hold. Sith hit me repeatedly.	
Witness Name: <u>Smith, Joe C/O</u>	
Testimony : <u>N/A</u>	
Decision : <u>Guilty</u>	
Rational : During confrontation o/o Pusey said writeup happened as he reported. Per report and confrontation inmate found guilty. 15 days isolation currently being done.	
Sanctions: <u>N/A</u>	
HEARING OFFICER'S SIGNATURE _____ Savage, Larry	

I understand that I may appeal the decision of a Class II Hearing to the Class I Hearing Officer. I may appeal the decision of a Class I Hearing to the facility administrator. I also understand that I have 72 hours to submit my notice of appeal in writing to the Class I Hearing Officer if I am appealing a Class II Hearing decision or the Warden if I am appealing a Class I Hearing decision.

I ☒ DO ☐ DO NOT INTEND TO APPEAL

INMATE's SIGNATURE _____

ORDER TO IMPLEMENT SANCTIONS			
<input checked="" type="checkbox"/> Inmate does not wish to appeal	<input type="checkbox"/> Appeal has been denied by Commissioner or Designate		
<input type="checkbox"/> Sanctions have been modified	<input type="checkbox"/> Time Limit(72 Hours since hearing) for appeal has expired		
It is here by ordered to implement the sanctions:			
Sanctions	Start Date	Days	End Date
1. Isolated Confinement		15	

ATTACHMENTS
SECTION "B"

Appendix K2
Page 2

ADMINISTRATIVE TRANSFER

INMATE STATEMENT

S.H. While conducting a search of my property officer Pusey found more than the institutional allowance of 2 Books. The extra books where from the institutional library. I had 2 personal books that where sent into the prison by a Family member. These personal books where clearly labled as personal property, the books titled "The Davinci Code" and "Angels and demons" John Brown had Stickers with my name and SBI num on the cover. OFFICER Pusey took these Books along with a personal Webster's Collegiate Dictionary and Webster's Thesaurus in order to be malicious. Because he could. OFFICER Pusey then brought my property to my cell. When I asked OFFICER pusey about my ST (Cont.)

ATTEST

Shane H. Pusey
Inmate Signature

11-26-04
Date

Inmate refused to make a statement ☐

[Signature] 11-26-04
Staff Signature Date

DO NOT DUPLICATE. FORWARD ORIGINAL TO SECURITY SUPERINTENDENT'S OFFICE ONLY.

Officer Posey physically grabbed me by my shirt telling me to get into the cell. I tripped backwards over my bag of property and banged my head onto the cell door handle and before I could stand back up straight Officer Posey placed me in a choke hold and took me down to the ground. Officer Smith came up the stairs and punched me in the face repeatedly while I was on the ground shouting how he hated me and had been waiting for a chance to "wip my fagot ass."

S.H. Officer Posey placed me in handcuffs and knelt on my back. Officer Posey told Officer Smith to "Spray this motherfucker" despite the fact that I was already restrained and not resisting. After I was pepper sprayed I was lifted off of the ground and grabbed by the hair, my face was then repeatedly banged into the wall while my hands that were cuffed behind my back were held up causing me to stand on my tippy toes. x S.H.

S.H. x Officers Posey and Smith led me down the steps and out to Building 22's sliding doors. They "I don't know who because I couldn't see" perposfully banged my head and face into the sliding doors door jamb. x S.H.

my face was rammed into the inside sliders door jamb, the outside sliders door jamb and building #24's door jamb, along with comments like "How did that feel" and "That sounded like it hurt". x S.H

S.H x This abuse was done because of Officer Smith and Officer Puseys personal feelings towards me, not because of any rule infraction at the time of the incident. x S.H

S.H x The opportunity presented itself for Officers Smith and Officers Pusey to have some fun at my expense knowing that thier actions could be justified.

S.H x I hold no long time personal grudges about past confrontations like officers Smith and officer Pusey did. Thier abuse of power is unjustified, x S.H

[Signature] 11-26-04
STAFF SIGNATURE DATE

Shawn Hopkins
[Signature]
11-26-04
DATE

FORM #584

GRIEVANCE FORM

FACILITY: D.C.C. SmyrnaDATE: Nov 26th 2004GRIEVANT'S NAME: Shane HopkinsSBI#: 253918CASE#: 9907TIME OF INCIDENT: Approx 3:00 P.MHOUSING UNIT: S.H.U #18-C-U#6

BRIEFLY STATE THE REASON FOR THIS GRIEVANCE. GIVE DATES AND NAMES OF OTHERS INVOLVED IN THE INCIDENT OR ANY WITNESSES.

This grievance is being filed as soon as I was able to. I have been in Isolation and was not able to obtain a pen and grievance form.

On 11-26-04 I was assaulted by C/O's Joe Smith and John Pusey.

C/O's Smith and Pusey Confiscated personal property that was sent into the Institution by family members R.e. ① Thesaurus and ① Fiction novel "Angles And Demons" by Dan Brown. —————> Cont. Pg # 2

ACTION REQUESTED BY GRIEVANT: This incident was malicious and it needs to be addressed.

GRIEVANT'S SIGNATURE: Shane HopkinsDATE: 12-17-04WAS AN INFORMAL RESOLUTION ACCEPTED? ☐ (YES) ☐ (NO)

(COMPLETE ONLY IF RESOLVED PRIOR TO HEARING)

GRIEVANT'S SIGNATURE: _____

DATE: _____

IF UNRESOLVED, YOU ARE ENTITLED TO A HEARING BY THE RESIDENT GRIEVANCE COMMITTEE.

cc: INSTITUTION FILE
GRIEVANT

Exhibit "A"

April '97 REV

RECEIVED

DEC 20 2004

Inmate Grievance Office

Pg # 16

C/O's Smith and Pusey placed me in Cell A upper #12 Building #22 while they conducted a search of my property that was in Cell Lower #10. During the Shakedown I was able to hear and see as several Library Books along with various other items were thrown into the hallway from my old cell.

When Officer Pusey brought me the property that was deemed allowable to cell upper #12 he placed a trash bag containing my property on the floor and signaled for the cell door to be opened. When the door opened Officer Pusey began to hand me ② Library Books which were clearly labeled as such.

I stepped out of the cell and pointed down to the floor at my Thesaurus and Dan Brown novel and asked why they were being confiscated. Officer Pusey stated that the books were being taken because I had more than the allowable number of books.

I told Officer Pusey that the Thesaurus and Dan Brown novel were personal books and that they were clearly labeled as such with a piece of tape with the words "personal property" written on it.

I began to explain that I was allowed to have ② personal books along with ② Library Books. Officer Pusey then stated "I don't care," and grabbed me by my shirt telling me to get back in my cell. I fell backwards over the trash bag containing my property and hit my head on the cell door handle.

Before I could get back to my feet officer Pusey dropped the Library Books he was holding and placed me in a headlock and called downstairs for officer Smith.

From the headlock I asked officer ~~pus~~ Pusey what his fucking problem was and reached my hands under Pusey's arm to relieve the pressure from around my neck.

Now at this point I am not sure who started to punch me in the chest and stomach, but someone hit me repeatedly before officer Smith pulled my feet out from underneath of me and I fell to the floor.

Everything that happened until now except for how this incident began could possibly be justified by officers Smith and Pusey by saying that I resisted. But that would be a lie.

As soon as I hit the floor I turned onto my stomach voluntarily and placed my hands behind my back. Officer Pusey knelt on my back and began twisting my arm behind my back as if to cuff me.

Officer Smith bent over me and said "I hate this faggot Motherfucker", and began to punch me in the face, he hit me like ⑤ times before standing up.

When I moved my free arm to protect my face officer Pusey released my other arm and placed me in a choke hold, he applied so much pressure that I was scared for my life. And when I managed to mumble that I couldn't breathe officer Pusey squeezed harder.

Cont. Pg #4 →

At this point in time Some other Officers arrived and C/O Smith told Someone to "Spray this Motherfucker," and I was Capfoamed and handcuffed.

I was then to Stand up and Face the wall where C/O Smith Smashed my Face into the wall and every Couple of Seconds he would Slap me in the back of the head So that my Face hit the wall.

Officers Smith and Posey then escorted me down the back tier Stairs and when we Reached the bottom Officer Smith grabed me by the throat and held me like that as he led me past all of the downstairs Cells as if displaying what had been done to me like I was some Kind of trophy.

After we left the tier Officers Smith and Posey held my arms up in the air Causing me to Stoop forward So that the top of my head was out in front of me.

When building #22^s inside Slider was opened my arms where pushed So that my head was banged into the door Jam. Officers Smith and Posey thought that this was extreamly Funny and they repeated the head into the door Jam Scinerio when building #22^s outside Slider opened with Comments like "that Sounded like it hurt".

They then led me up the walkway and Forced my head into building #24^s wall. I Caldn't See because of the Capfoam in my eyes So I was unable to avoid these blatant attempts to inflict pain.

PG # 5 of 7

I was then placed in one of building #24's classrooms and left alone for a couple of minutes before Nurse Betty examined my wounds. I started to tell her and everyone in the room how officers Smith and Pusey treated me. Officer Smith who was in the room repeatedly told me to "Shut up Hopkins," as if I shouldn't tell anyone about the things that were done to me.

Nurse Betty directed L.T. Garrety to take me to be cleaned up in order to remove the Capfoam from my eyes. As I leaned over the sink I heard many people around me. So I told the whole room about the things that had been done to me and again Officer Smith told me repeatedly to "Shut up" from some distance away.

I was led back to a classroom where my feet were shackled to a table leg and left alone for a couple of minutes before the classroom door opened and officers Smith and Pusey came in and ordered me to ~~stand up~~ stand up. I stood up and I was bent over the table that I was shackled to. Officer Smith then grabbed the middle finger of my right hand and started to bend it backwards, he then let go of my middle finger and switched to my Index finger of my right hand. Officer Pusey then asked Officer Smith "do you have the one you want?" and Smith began to bend my finger backwards as if to break it. When my finger started to hurt I called officers Smith and Pusey a couple of real bitches loudly and they both got off of me and left the room.

Cont. PG #

→

PG # 6 of 7

A Couple of minutes passed and nurse Betty Came back into the room and Cleaned my wounds, She then took my blood pressure and Checked my blood oxygen Content before telling me to "Calm down," before leaving.

During this incident I Felt like a small child in the hands of two Sadistic adults. These two officers Seemed to get a perverse pleasure From Causing me pain.

I did not resist because I have a release date and I want to keep it. I Knew what the Consequences would be if I threw a punch at these guards.

Because of the extensive injuries I recieved at the hands of these officers I requested that pictures be taken of my body and L.T. Garrety took Several photo's But he could not take pictures of the abraisions on my Scalp.

These officers Claim that I recieved the injuries because I resisted. But if I resisted enough to justify the injuries I recieved then why is there not one Single Scratch or mark on officers Smith and Pusey.

Thank You For Your Time.

Shane Hopkins

Dr #19

STATE OF DELAWARE
COUNTY OF NEW CASTLE

§§.

AFFIDAVIT/STATEMENT

Shane Hopkins #00253918

STATEMENT

I Shane Hopkins BEING FIRST duly SWORN DEPOSES AND SAYS THAT ON 11-26-04 THE FOREGOING INCIDENT TOOK PLACE IN M.H.V BULD. # 22 BETWEEN MYSELF AND CORRECTIONAL OFFICERS. I WOULD THEREFORE STATE THE FOLLOWING EVENTS TOOK PLACE AGAINST MY PERSON.

ON 11-26-04 MY CELL MATE BRIAN O'NEAL PURPOSEFULLY CLOGGED OUR CELLS TOILET A-L-#10. BRIAN O'NEAL THEN COMPLAINED TO THE GUARDS ABOUT THE BROKEN TOILET AND DEMANDED TO BE MOVED TO ANOTHER CELL. CORRECTIONAL OFFICER BAKER THEN ORDERED ME TO PACK MY PROPERTY AND MOVE TO CELL A-U-#12. I TOLD C/O BAKER THAT I DID NOT GET ALONG WITH THE INMATE IN CELL A-U-#12 AND THAT I WOULD NOT MOVE BECAUSE WE MIGHT GET INTO A PHYSICAL ALTERCATION. C/O BAKER THEN LEFT THE TIER IN ORDER TO CALL FOR BACKUP.

STATE OF DELAWARE
COUNTY OF NEW CASTLE §§.

CONT PAGE 2 OF 9
AFFIDAVIT STATEMENT

AFTER SEVERAL MINUTES LT. YODER AND C/O^S JOE SMITH AND JOHN PUSEY CAME TO TALK TO ME. I TOLD LT. YODER OF MY FEARS CONCERNING THE MOVE TO CELL A-U-[#]12.

LT. YODER ASSURED ME THAT THE MOVE WOULD ONLY BE TEMPORARY AND THAT I WOULD BE MOVED BACK TO CELL A-L[#]10 AS SOON AS THE TOILET WAS FIXED. SO I AGREED TO MOVE.

WHILE I WAS PACKING MY PROPERTY FOR THE MOVE C/O JOE SMITH NOTICED THAT I HAD SEVERAL BOOKS. INSTITUTIONAL POLICY FOR THE M.H.U STATES THAT INMATES ARE ONLY ALLOWED TO HAVE TWO BOOKS. C/O SMITH ORDERED ME TO GO TO CELL A-U-[#]12 WHILE HE CONDUCTED A INVENTORY SHAKEDOWN OF MY PROPERTY.

DURING THE INVENTORY / SHAKEDOWN I WAS ABLE TO HEAR AND SEE AS SEVERAL BOOKS ALONG WITH VERIOUS OTHER ITEMS WERE THROWN INTO THE HALLWAY BY OFFICERS SMITH AND PUSEY.

STATE OF DELAWARE
COUNTY OF NEW CASTLE §§.

CONT PAGE 3 OF 9
AFFIDAVIT STATEMENT

AFTER C/O^S SMITH AND PUSEY COMPLETED THE INVENTORY / SHAKEDOWN C/O PUSEY BROUGHT THE PROPERTY THAT WAS DEEMED ALLOWABLE TO ME IN CELL A-U-#12 IN A TRASH BAG AND ORDERED THE CELL DOOR BE OPENED.

C/O PUSEY BEGAN TO HAND ME TWO LIBRARY BOOKS. I STEPPED OUT OF THE CELL AND POINTED DOWN TO MY PERSONAL BOOKS ON THE TIER FLOOR AND ASKED WHY THEY WERE BEING CONFISCATED. C/O PUSEY TOLD ME THE BOOKS WERE BEING TAKEN BECAUSE I HAD MORE THAN THE ALLOWABLE NUMBER OF BOOKS.

I TOLD C/O PUSEY THAT I WAS ALLOWED TO HAVE TWO INSTITUTIONAL LIBRARY BOOKS ALONG WITH TWO PERSONAL BOOKS.

C/O PUSEY TOLD ME THAT HE DID NOT CARE AND HE GRABBED MY SHIRT AND STARTED TO PUSH ME BACKWARDS INTO THE CELL. I TRIPPED OVER THE BAG CONTAINING MY PROPERTY AND HIT MY HEAD ON THE CELL DOOR.

STATE OF DELAWARE
COUNTY OF NEW CASTLE

§§.

CONT PAGE 4 OF 9
AFFIDAVIT STATEMENT

BEFORE I COULD REGAIN MY FOOTING C/O PUSEY
PLACED ME IN A HEADLOCK/CHOKEHOLD AND CALLED
DOWNSTAIRS TO C/O SMITH.

FROM THE HEADLOCK/CHOKEHOLD I ASKED C/O
PUSEY WHAT HIS FUCKING PROBLEM WAS AND REACHED
MY HANDS UP UNDER HIS CHOKING ARM TO RELIEVE THE
PRESSURE FROM AROUND MY NECK.

AT THIS POINT EITHER C/O PUSEY OR C/O
SMITH BEGAN TO PUNCH ME REPEATEDLY IN THE
CHEST AND STOMACH. I COULD NOT SEE WHO
BECAUSE MY HEAD WAS BEING HELD FACING AWAY
FROM THE OFFICERS.

C/O SMITH PULLED MY FEET OUT FROM UNDER
ME AND I FELL TO THE FLOOR. WHERE I VOLUNTARILY
TURNED ONTO MY STOMACH AND PLACED MY HANDS
BEHIND MY BACK SO THAT THE C/O'S COULD
PUT THE HANDCUFFS ON.

OFFICER PUSEY KNELT ON MY BACK AS IF
TO CUFF ME.

STATE OF DELAWARE
COUNTY OF NEW CASTLE

§§

CONT PAGE 5 OF 9
AFFIDAVIT STATEMENT

C/O SMITH BENT OVER ME AND SAID "I HATE THIS FAGGOT MOTHER FUCKER" AND PUNCHED ME REPEATEDLY IN THE FACE.

WHEN I TRIED TO SHIELD MY FACE FROM THIS ATTACK OFFICER POSEY PLACED ME IN A CHOKEHOLD / HEADLOCK AND APPLIED SO MUCH PRESSURE ON MY NECK THAT MY VISION BEGAN TO BLUR AND I BECAME SCARED FOR MY LIFE. I MANAGED TO TELL C/O POSEY THAT I COULDN'T BREATHE. INSTEAD OF LESSENING THE PRESSURE C/O POSEY SQUEEZED HARDER.

I HEARD SOME OTHER OFFICERS ARRIVING BUT I DO NOT KNOW WHO THEY WERE BECAUSE MY HEAD WAS TURNED AWAY FROM THEM. ONE OF THE OFFICERS HOLLERED "SPRAY THIS MOTHER FUCKER" AND I WAS CAPFOAMED AND HANDCUFFED.

I WAS THEN LIFTED TO MY FEET AND TOLD TO FACE THE WALL WHERE C/O SMITH SLAPPED ME IN THE BACK OF THE HEAD REPEATEDLY MAKING MY FACE HIT THE WALL.

STATE OF DELAWARE
COUNTY OF NEW CASTLE

§§

CONT PAGE 6 OF 9
AFFIDAVIT STATEMENT

I WAS THEN ESCORTED DOWNSTAIRS AND WHEN WE REACHED THE BOTTOM C/O SMITH GRABBED ME BY THE THROAT AND LIFTED MY HEAD UP AS HE LED ME PAST ALL OF THE DOWNSTAIRS CELLS DISPLAYING MY INJURIES TO THE OTHER INMATES.

AFTER WE LEFT THE TIER OFFICER SMITH HELD MY ARMS UP IN THE AIR CAUSING ME TO STOOP FORWARD SO THAT THE TOP OF MY HEAD WAS IN FRONT OF ME. WHEN BUILDING # 22 INSIDE SLIDING DOOR OPENED MY ARMS WERE PUSHED SO THAT MY HEAD BANGED INTO THE DOOR JAM.

OFFICERS SMITH AND POSEY BEGAN TO LAUGH AND WHEN BUILDING # 22 OUTSIDE SLIDING DOOR OPENED OFFICER SMITH PUSHED MY HANDCUFFED ARMS AND MY HEAD WAS FORCED INTO THE DOOR JAM AGAIN. C/O SMITH SAID "THAT SOUNDED LIKE IT HURT", ALONG WITH VARIOUS OTHER COMMENTS ABOUT THE INCIDENT.

I WAS THEN LED UP THE WALKWAY TO BUILDING #24 WHERE C/O SMITH FORCED MY HEAD INTO THE WALL.

STATE OF DELAWARE
COUNTY OF NEW CASTLE

§§

CONT PAGE 7 OF 9
AFFIDAVIT STATEMENT

I COULD NOT SEE BECAUSE OF THE CAPFOAM IN MY EYES AND I WAS UNABLE TO MOVE TO AVOID THESE BLATANT ATTEMPTS TO INFLICT PAIN.

I WAS THEN TAKEN TO A CLASSROOM AND LEFT ALONE FOR SEVERAL MINUTES BEFORE NURSE BETTY EXAMINED ME. I TOLD HER AND EVERYONE ELSE IN THE ROOM HOW C/O^S SMITH AND PUSEY HAD BEATEN ME WITHOUT JUSTIFICATION.

OFFICER SMITH KEPT SCREAMING FOR ME TO "SHUT UP HOPKINS", IN ORDER TO PREVENT ME FROM TELLING OTHER PEOPLE WHAT THEY HAD DONE TO ME.

NURSE BETTY THEN TOLD L.T. TO CLEAN THE CAPFOAM FROM MY EYES AND I WAS LED FROM THE CLASSROOM TO A SINK WHERE I HAD MY FACE CLEANED.

I COULD HEAR THAT THERE WERE MANY PEOPLE AROUND ME SO I BEGAN TO TELL EVERYONE WHAT C/O^S SMITH AND PUSEY HAD DONE TO ME.

ONCE AGAIN C/O SMITH WAS NEARBY AND HE ORDERED ME TO "SHUT UP".

STATE OF DELAWARE
COUNTY OF NEW CASTLE

§§.

CONT Page 8 of 9
AFFIDAVIT STATEMENT

AFTER THE CAPFOAM WAS CLEANED FROM MY FACE I WAS TAKEN BACK TO THE CLASSROOM WHERE MY LEGS WERE SHACKLED TO A TABLE.

EVERYONE LEFT THE ROOM AND AFTER SEVERAL MINUTES C/O^S SMITH AND POSEY CAME INTO THE ROOM AND ORDERED ME TO STAND UP. I STOOD UP AND THEY BENT ME OVER A TABLE I WAS SHACKLED TO. C/O SMITH GRABBED MY RIGHT HAND MIDDLE FINGER AND STARTED TO BEND IT BACKWARDS. C/O SMITH THEN LET GO OF MY MIDDLE FINGER AND SWITCHED TO MY INDEX FINGER. C/O POSEY ASKED C/O SMITH IF HE "HAD THE ONE HE WANTED," AND OFFICER SMITH BEGAN TO BEND MY FINGER AS IF TO BREAK IT. WHEN I BEGAN TO FEEL PAIN I CALLED C/O^S SMITH AND POSEY "A COUPLE OF REAL BITCHES" LOUDLY AND THEY BOTH GOT OFF OF ME AND LEFT THE ROOM.

APPROX. 5 MINUTES PASSED AND NURSE BETTY CAME AND CLEANED MY WOUNDS AND CHECKED MY FINGER.

STATE OF DELAWARE
COUNTY OF NEW CASTLE

§§

CONT PAGE 9 OF 9
AFFIDAVIT STATEMENT

SHE ALSO CHECKED MY BLOOD OXYGEN CONTENT
AND BLOOD PRESSURE BEFORE TELLING ME TO CALM DOWN.

THESE CORRECTIONAL OFFICERS SEEMED TO
DERIVE PLEASURE BY CAUSING ME PAIN.

I DID NOT RESIST THEIR ATTACK AT ANY
TIME BECAUSE I KNEW THE CONSEQUENCES IF
I PUNCHED, KICKED OR SCRATCHED THESE GUARDS.

BECAUSE OF THE EXTENSIVE INJURIES I
RECEIVED I REQUESTED PICTURES BE TAKEN OF
MY BODY. L.T. TOOK SEVERAL PHOTOS BUT
HE COULD NOT TAKE PICTURES OF THE BUMPS AND
ABRAISIONS ON MY SCALP.

I DID NOT RESIST THESE OFFICERS ENOUGH
TO JUSTIFY MY INJURIES.

NO OFFICERS RECEIVED ANY INJURIES
DURING THIS ALTERCATION.

SWORN TO AND SUBSCRIBED
BEFORE ME THIS 20th day OF
MAY 2005

Shawn Hopkins

Brian D Englem
NOTARY PUBLIC

ATTACHMENTS
SECTION "C"

SHUUT AL4 :

TO: Assistant Deputy Warden D.R. Pierce
Major Dave Holman
Section Supervisor
D.C.C. Smyrna - SHU - MHU units

RECEIVED

MAY 09 2005

DEPUTY WARDEN I

Re: Grievance #9907 Assault of Inmate.

I am requesting that you notify me of the outcome of my request - Grievance as to the assault upon my person as stated in Grievance #9907 and Deputy Warden D.R. Pierce's request at top of Grievance for you to assign Supervisor (other than L.T. Boone) to investigate the allegations therein.

Please Notify me Accordingly.

Sincerely Yours,
Shane Hopkins

Shane Hopkins #00253415
SHU 17-A-L#4

cc: file

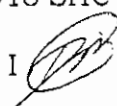
cc: Colm F. Connolly Esq.

Exhibit "C"



STATE OF DELAWARE
DEPARTMENT OF CORRECTION
OFFICE OF THE DEPUTY WARDEN I
DELAWARE CORRECTIONAL CENTER
1181 Paddock Road
SMYRNA, DELAWARE 19977
Telephone: (302) 653-9261
Fax: (302) 659-6668

MEMORANDUM

TO: IM Shane Hopkins SBI# 253918 SHU 17 AL4
FROM: David Pierce, Deputy Warden I 
DATE: May 18, 2005
RE: Grievance

I received your letter May 9, 2005, regarding your grievance outcome.
When a decision is reached you will be notified.

DP/dc
Attachment
cc: File

17 AL4

RECEIVED

MAY 30, 2005

MAY 31 2005

DEPUTY WARDEN I

D.W. DE. PIERCE

RE: Reply TO YOUR MEMORANDUM OF 5-18-05

DEAR SIR,

THANK YOU FOR RESPONDING TO MY WRITTEN REQUEST RECEIVED ON 5-9-05 AS TO GRIEVANCE # 9907 DISPOSITION. I WOULD LIKE YOU TO KNOW THAT NO ONE HAS SPOKEN TO ME ABOUT THIS GRIEVANCE OR ANOTHER ADDENDUM GRIEVANCE # 9908 SINCE THEY WERE FILED. I WOULD ALSO NOTE THAT I WAS DENIED ACCESS TO ANYTHING DURING THE TIME PERIOD I WAS HELD IN ISOLATION STATUS, THUS I FILED AS SOON AS I OBTAINED MY PROPERTY BACK. I SAY THIS BECAUSE IT IS A COMMON CUSTOM OR PRACTICE TO DENY ANYONE IN ISOLATION STATUS A PEN OR GRIEVANCES.

I WOULD ALSO NOTE THAT B.O.P AND C.F.R ON GRIEVANCE PROCEDURE WILL SHOW THAT NO PROCESS NOW COULD BE TIMELY AS THE GRIEVANCES ARE MORE THEN 180 DAYS OLD.

PLEASE NOTIFY ME AS TO WHO IS INVESTIGATING THESE.

SINCERELY YOURS,

Shane Hopkins

SHANE HOPKINS #253416

S.H.O. #17 A-L#4

*Rec'd
6-5-05*



STATE OF DELAWARE
DEPARTMENT OF CORRECTION
OFFICE OF THE DEPUTY WARDEN I
DELAWARE CORRECTIONAL CENTER
1181 Paddock Road
SMYRNA, DELAWARE 19977
Telephone: (302) 653-9261
Fax: (302) 659-6668

MEMORANDUM

TO: IM Shane Hopkins SBI# 253918 SHU 17 AL4
FROM: David Pierce, Deputy Warden I *[Signature]*
DATE: June 2, 2005
RE: Grievance

I received your letter dated May 30, 2005, regarding grievances you filed. Grievance #9907 and #9908 were rendered non-grievable issues. Therefore this matter is closed.

DP/dc
Attachment
cc: File

JUNE 12TH, 2005

DEPUTY WARDEN
DAVID E. PIERCE

RE: Reply TO YOUR JUNE 2ND, 2005 REF: GRIEVANCE #9907
AND #9906

SIR,

PRESUMPTIVELY, WHEN YOU ORDERED AN INVESTIGATION ON 12-30-04, BY THE NOTATION AT THE TOP OF GRIEVANCE #9907 YOU INSTITUTED A SEPRATE AND DISTINGUISHING INQUIRY OUT-SIDE OF AND INCLUDING THE REJECTION REASONS STATED ON THE BACK OF THE ORIGINAL GRIEVANCE DATED 12-20-04 BY C.P.L. L.M. MERSON. MY INQUIRY SPECIFICALLY ASKED OF YOU WHO WAS ASSIGNED TO INVESTIGATE THE MATTER UPON THE AFORESAID.

SINCE I HAVE NOT SPOKEN TO ANYONE ABOUT THIS AT ANY POINT THUS-FAR I WOULD REQUEST OR MAJOR DAVID HOLMAN TO NOTIFY ME ACCORDINGLY.

I AM REQUESTING AN INVESTIGATION AND CRIMINAL CHARGES HENCEFORTH.

XC: FILE

SINCERELY YOURS,
x Shane Hopkins
253918

SHANE HOPKINS.

DCC Delaware Correctional Center
 Smyrna Landing Road
 SMYRNA DE, 19977
 Phone No. 302-653-9261

Date: 06/13/2005

GRIEVANCE REPORT

OFFENDER GRIEVANCE INFORMATION

Offender Name : HOPKINS, SHANE K	SBI# : 00253918	Institution : DCC
Grievance # : 14510	Grievance Date : 06/08/2005	Category : Individual
Status : Unresolved	Resolution Status :	Resol. Date :
Grievance Type: Medical Staff	Incident Date : 06/08/2005	Incident Time :
IGC : Vargas, Rosalie	Housing Location : Bldg 17, Lower, Tier A, Cell 4, Single	

OFFENDER GRIEVANCE DETAILS

Description of Complaint: On 5-18-05 I submitted a sick call slip outlining what I consider a serious problem. This person who did not see fit to sign her response is treating this continuing problem like a joke that did not even deserve her attention. This is a frightening experience. And I want to know why it is happening. I have since had this same kind of experience while I am fully awake. I cant know if this is a medical problem or a mental health issue

Remedy Requested :

INDIVIDUALS INVOLVED

Type	SBI #	Name

ADDITIONAL GRIEVANCE INFORMATION

Medical Grievance : YES	Date Received by Medical Unit : 06/13/2005
Investigation Sent : 06/13/2005	Investigation Sent To : Wolken, Gina
Grievance Amount :	

DCC Delaware Correctional Center

Date: 06/13/2005

Smyrna Landing Road

SMYRNA DE, 19977

Phone No. 302-653-9261

INFORMAL RESOLUTION

OFFENDER GRIEVANCE INFORMATION

Offender Name : HOPKINS, SHANE K	SBI# : 00253918	Institution : DCC
Grievance # : 14510	Grievance Date : 06/08/2005	Category : Individual
Status : Unresolved	Resolution Status:	Inmate Status :
Grievance Type: Medical Staff	Incident Date : 06/08/2005	Incident Time :
IGC : Vargas, Rosalie	Housing Location :Bldg 17, Lower, Tier A, Cell 4, Single	

INFORMAL RESOLUTION

Investigator Name : Wolken, Gina

Date of Report 06/13/2005

Investigation Report :

Reason for Referring:

Discussed c him his s/s. Appears that it may be related to anxiety. Encouraged to put sick call into mental Health.

Offender's Signature:

Refused to sign until seen by mental health

Date

6/14/05

Witness (Officer)

[Signature]

* REGISTERED RETURN RECEIPT REQUESTED *

Date: July 5th 2005 <sup>11.00
7.50
1.75</sup>Pay-To: DELAWARE CORRECTIONAL CENTER Amount: \$ 10.31The Sum of: ten and Cents 31REGISTERED
MAIL
PLEASE

Address to whom sent:

M. JANE BRADY
DELAWARE ATTORNEY GENERAL
820 N. FRENCH ST. 12th FLOOR
WILMINGTON DELAWARE 19601SBI# 253918Shane Hopkins

Log # _____

Check # _____

Date of Ck _____

Form #34 (rev 5/03)

* REGISTERED RETURN RECEIPT REQUESTED *

Date: July 5th 2005Pay-To: DELAWARE CORRECTIONAL CENTER Amount: \$ 10.31The Sum of: ten and Cents 31REGISTERED
MAIL
PLEASE

Address to whom sent:

DREWRY NASH FENNELL ESQ.
A.C.L.U. OF DELAWARE
100 W. TENTH ST
SUITE 309
WILMINGTON DE. 19601SBI# 253918Shane Hopkins
Ultimate Signature

Log # _____

Check # _____

Date of Ck _____

REC-8-13-05

SENDER: COMPLETE THIS SECTION	COMPLETE THIS SECTION ON DELIVERY
<ul style="list-style-type: none">■ Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.■ Print your name and address on the reverse so that we can return the card to you.■ Attach this card to the back of the mailpiece, or on the front if space permits.	<p>A. Signature <i>R. W. Wright</i> <input type="checkbox"/> Agent <input type="checkbox"/> Addressee</p>
<p>1. Article Addressed to: <i>Fennell ESQ 100 W. 16th St Suite 309 Wilmington, De</i></p>	<p>B. Received by (Printed Name) <i>R. W. Wright</i> C. Date of Delivery <i>1/1/06</i></p>
<p>2. Article Number (Transfer from service label) <i>RR486946205US</i></p>	<p>D. Is delivery address different from item 1? <input checked="" type="checkbox"/> Yes If YES, enter delivery address below: <input type="checkbox"/> No</p> <p><i>5002 L 101</i></p>
<p>PS Form 3811, February 2004</p>	<p>3. Service Type <input type="checkbox"/> Certified Mail <input type="checkbox"/> Registered Mail <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> Insured Mail <input type="checkbox"/> C.O.D. 4. Restricted Delivery? (Extra Fee) <input type="checkbox"/> Yes</p> <p>Domestic Return Receipt 102595-02-M-1540</p>

JUNE 13, 2005

DIRECTOR,
DREWRY NASH FENNEL ESQ. ✓
ACLU OF DELAWARE
100 W. 10th ST.
SUITE 309
WILMINGTON, DE 19801

Re: Submissions To File # 02-22 AND STATUS

DEAR DIRECTOR,

I Submitted AN INCIDENT IN 2002,
ASTO DIANE WINTERS DIRECTION TO DO SO.

I WOULD LIKE TO KNOW THE STATUS OF
MY (CRIPA*) SUBMISSION AND IF YOU ARE GOING TO
REFER THE SUBMISSION TO THE U.S ATTORNEYS OFFICE FOR
INVESTIGATIVE AUTHORITY AFORESAID.

PLEASE ADVISE AND PROVIDE ME WITH A
COPY OF MY SUBMISSION AND ANY RELATIVE LETTERS,
MEMO'S, ECT, DONE AS A RESULT OF THE ASSAULT UPON
MY PERSON.

* 42 U.S.C. § 1997 ET. SEQ.

XC: FILE

CC: MARIE A. O'ROURKE ESQ.
PATRICIA C. HANNIGAN ESQ.
COLM CONNOLLY ESQ.

SINCERELY YOURS,
X Shane Hopkins

SHANE HOPKINS # 00253918
1181 Paddock Rd.
SMYRNA DE.
19977-9679

July 2, 2005

Rec'd
7/4/05
Kew

Dir ACLU of Del.

DREWRY NASH FENNEL ESQ.

RE: ATTACHED

I would like to address the reason why these materials/letters have taken so long to get to you. It's very simple BRIAN ENGREM LAW LIBRARIAN D.C.C S.H.U. TRIES TO STOP, PREVENT, HAMPER AND DELAY Filings By Withholding of Legal Filings FOR WEEKS AT A TIME.

PLEASE NOTE THE AFORESAID AND ASSIGN ME AN ATTORNEY FROM YOUR DELAWARE OR WASHINGTON D.C. DIVISION TO HANDLE THESE MATTERS HENCEFORTH. AND I NEED THE CURRENT ADDRESS OF THE FORMER DELAWARE A.C.L.U Dir. JUDITH MULLEN ESQ. OR WHERE SHE CAN BE REACHED.

I would ask of your position the foregoing ISSUES PRESENT FOR U.S. ATTNYS C.R.I.P.A. VIOLATION/ INVESTIGATION INTO MY ASSAULT.

THANK YOU FOR YOUR ASSISTANCE IN THE AFORESAID.

SINCERELY YOURS,

Shane Hopkins

SHANE K. HOPKINS

XC: File

ATTACHMENTS (4)

REC 7-19-05

aclu delaware

July 13, 2005

Mr. Shane Hopkins
Delaware Correctional Center
SBI#00253918
1181 Paddock Road
Smyrna, DE 19977

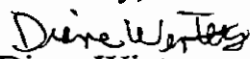
Dear Mr. Hopkins:

I am in receipt of your letter dated July 2, 2005.

You must understand that our past assistance to you in dealing with your rights at the prison in no way suggests that we legally represent you. Therefore, your request for an appointed attorney can not be met. I suggest that you continue to file grievances at the prison which is a procedure required by the prison to obtain any action regarding your complaints.

Thank you for keeping us informed of your situation.

Sincerely,


Diane Winters
Intake Representative

AUGUST 12, 2. 05 MAILED 8-29-05

DREWRY NASH FENNELL Esq.
EXECUTIVE DIRECTOR
A.C.L.U OF DELAWARE
100 WEST 10TH STREET SUITE 309
WILMINGTON DELAWARE 19801

RE: SUBMISSIONS AND NON-REPLIES TO SPECIFIC QUESTIONS.

DEAR COUNSEL,

ON 6-13-05 I WROTE YOU CONCERNING 02-22
FILE SUBMISSIONS, YOU DID NOT RESPOND TO MY REQUEST OF THE
CURRENT STATUS THEREOF AND YOU DID NOT PROVIDE ME WITH COPIES
OF PREVIOUS SUBMISSIONS OR WHAT FOLLOW-UPS WERE DONE
IN RELATION THERETO.

ON 7-2-05 I WROTE CONCERNING THE CURRENT
ADDRESS OF JUDITH MULLEN Esq. WHOM YOU REPLACED IN
2004, YOU DID NOT RESPOND TO MY REQUEST, BUT IN A VARIANCE
SUBORDINATES LETTER/REPLY ON 7-13-05 WHICH WAS TOTALLY
NON-RESPONSIVE TO ANY OF MY 7-2-05 QUESTIONS PRESENTED
THEREIN UNDER.

WITHIN 10 DAYS OF RECEIPT OF THIS LETTER I
WOULD REQUEST YOU REPLY TO MY ISSUES PRESENTED IN MY
PAST SUBMISSIONS AFORESAID. YOUR FAILURE TO DO SO WILL
RESULT IN A COMPLAINT AGAINST YOU WITH THE O.D.C.
YOU ARE PLAYING GAMES WITH PEOPLES LIVES AND HAVE
INCURRED NUMEROUS DEL. RULE PROFESSIONAL RESPONSIBILITY
CODE OF CONDUCT VIOLATIONS THAT WILL BE PRESENTED

ACCORDINGLY AND VIGOROUSLY PROSECUTED BOTH STATE
AND FEDERAL R.I.C.O VIOLATIONS.

THANK YOU FOR YOUR PROMPT ATTENTION IN THE
MATTER HEREIN.

SINCERELY YOURS.

Shane Hopkins

SHANE HOPKINS

#253918

1181 Paddock Rd

SMYRNA DE 19977

XC: FILE

CC: Cdm F. Connolly Esq U.S. ATTNY

MAILED:

REGISTERED MAIL

1/26/05
10-22-05

aclu delaware

September 20, 2005

Mr. Shane Hopkins
Delaware Correctional Center
SBI#253918, Unit 17
1181 Paddock Road
Smyrna, DE 19977

Dear Mr. Hopkins:

I am in receipt of your letter dated August 12, 2005.

I would be more than happy to respond to your request to forward information to Judith Mellen. Although we have information from you in our possession, please provide us with a detailed list of what you would like us to forward on your behalf. If you would like to correspond with her, you can send communications in care of our office and I will be happy to forward them.

As you know, the ACLU is not a general legal services clinic. We are a private, non-profit organization with limited resources and, therefore, must be very selective in choosing cases. We generally handle cases that deal with issues of constitutional law, seeking to advance and preserve basic rights and principles spelled out in the state and federal constitutions. Even among those types of cases, we can take only a small percentage of the many meritorious complaints that we receive.

Please understand that our ability to represent you is not a judgment on the merits of your case. We simply do not have the resources to assist you. And, unfortunately, our attempts to resolve the issues concerning prison conditions did not receive the attention that we anticipated. We continue to work to bring attention to the many difficulties faced by those in the prison system.

We urge you to again be sure to exhaust all administrative remedies (grievances and appeals) before attempting a judicial resolution to your situation. New legislation requires absolute exhaustion of administrative remedies before state prisoners may file a civil action. Should you fail to take this step, it will, in all likelihood, result in your civil action being dismissed.

We are sorry that we cannot be of assistance to you at this time and we hope that you will be able to resolve this matter satisfactorily. Thank you for contacting my office.

Sincerely,

A handwritten signature in black ink, appearing to read "Drewry Nash Fennell". The signature is fluid and cursive, with the first name "Drewry" being more prominent and the last name "Fennell" written in a series of connected loops.

Drewry Nash Fennell, Esquire
Executive Director
ACLU of Delaware

DECEMBER 22, 2005

DREWRY NASH FENNEL ESQ.
EXECUTIVE DIRECTOR
A.C.L.U. OF DELAWARE
100 WEST 10TH STREET
SUITE # 309
WILMINGTON DELAWARE 19801

RE: 2ND REQUEST FOR REPLY TO YOUR 9-20-05 LETTER.

A.C.L.U. DIRECTORS FENNEL AND MELLEN,

PER YOUR 9-20-05

LETTER IN WHICH I'VE RECEIVED NO REPLY AS OF THE ABOVE DATE TO MY 9-30-05 LETTER ADDRESSING THE FOLLOWING QUESTIONS:

A) WHAT HAS THE A.C.L.U. DONE WITH MY 2 SUBMISSIONS OF EXCESSIVE USE OF FORCE THAT I HAVE SUBMITTED TO YOU UNDER FILE NO: 02-22

B) WHAT STEPS CAN I TAKE TO REPORT THESE ON GOING CONDITIONS OF ILLEGAL USE OF FORCE INCIDENTS. THAT I AND NOW AS I'VE READ IN THE NEWS PAPERS NUMEROUS OTHER INMATES ARE NOW REPORTING.

C) IN YOUR 9-20-05 LETTER YOU EXPOUND UPON "OUR ATTEMPTS TO RESOLVE THE ISSUES CONCERNING PRISON CONDITIONS DID NOT RECEIVE THE ATTENTION THAT WE ANTICIPATED". WHO DID YOU SPEAK WITH AND CAN I BOLSTER OR ADVANCE YOUR CLAIMS TO THEM AND/OR CONTACT THE NEWS PAPERS* ECT.

D) ARE THERE ANY PRO BONO ATTORNEYS OR ORGANIZATIONS INVOLVED AND/OR CAN YOUR NATIONAL DIVISION INTERVENE OR ALLOW YOUR DIVISION TO BRING ALL OF THIS TO LIGHT?

IT WOULD SEEM, THE PROBLEMS ARE INHERENT. WITHIN THE CORRUPTION AND COVER-UPS OF YEARS OF INSUBORDANT ACTS, DONE SOLEY TO REPRESS THIER JOB PERFORMANCE REQUIREMENTS AND "NOT" DO ANYTHING BUT COME UP WITH MORE REASONS AFORESAID, THAT THEY ARE DOING THIER JOBS.

WHATS MORE, THERE IS "NO" SUCH THING AS REHABILITATION ITS WAREHOUSING. I HAVE BEEN HELD IN THE S.H.U. (MAX) SINCE THE INCIDENT OF ASSAULT OF 11-26-04.

SINCERELY YOURS,

Shane Hopkins

SHANE HOPKINS

#253918 17-A-L#4

1181 PADDOCK RD.

SMYRNA DELAWARE
19977

* THE SAME TYPE OF CONDITIONS ENUMERATED BY NEWS JOURNAL REPORTERS ESTABAN PARRA AND LEE WILLIAMS MIRROR THE SAME WAY BOTH OF MY INCIDENTS WERE REPORTED.

aclu delaware

March 6, 2006

Mr. Shane Hopkins
Delaware Correctional Center
SBI#253918, 17-A-L-4
1181 Paddock Road
Smyrna, DE 19977

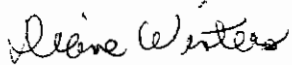
Dear Mr. Hopkins:

In your letter of December 22, 2005, you indicate that you continue to have problems with excessive force at the prison. You have not indicated with which officers you are experiencing these problems.

Our letter to you dated September 20, 2005, clearly stated that we are not in a position to represent you legally and we suggested that you continue to file the grievances. I am uncertain if this is what you have been doing. If you would like us to investigate this matter further or to contact the warden or department of corrections on your behalf, I will need your permission to use your name. Please write back to us giving us the authorization to do so on your behalf and include the names of the particular officers with whom you are having problems. It is my understanding that if there are other prisoners who are experiencing the same problems with the same officers, then perhaps the Delaware Center for Justice can intervene as well. Once again, this is not an offer to represent you legally, but a means of trying to help you in your present situation.

I will await your response.

Sincerely,


Diane Winters
Intake Representative



american civil liberties union delaware
100 West 10th Street • Suite 309 • Wilmington, Delaware 19801
(302) 654-3966

PG #47

ATTACHMENTS
SECTION "E"

* REGISTERED RETURN RECEIPT REQUESTED *

Date: July 5th 2005 ^{11:50 AM}

Pay-To: DELAWARE CORRECTIONAL CENTER

Amount: \$ 10.31

The Sum of:

ten and Cents 31

REGISTERED
MAIL
PLEASE

Address to whom sent:

M. JANE BRADY

SBI# 2539116

Sharon Hopkinson

DELAWARE ATTORNEY GENERAL

Log #

820 N. French St. 12th Floor

Check #

Wilmington Delaware 19401

Date of Ck

Form #34 (rev 5/03)

* REGISTERED RETURN RECEIPT REQUESTED *

Date: July 5th 2005

Pay-To: DELAWARE CORRECTIONAL CENTER

Amount: \$ 10.31

The Sum of:

ten and Cents 31

REGISTERED
MAIL
PLEASE

Address to whom sent:

DREWRY NASH FENDELL ESQ.

SBI# 2539116

Sharon Hopkinson

A.C.L.U. of Delaware

Log #

100 W. Tenth St

Check #

Suite 309

Date of Ck

Wilmington DE. 19401

United States Postal Service

SENDER: COMPLETE THIS SECTION

- Complete items 1, 2, and 3. Also complete item 4 if Restricted Delivery is desired.
- Print your name and address on the reverse so that we can return the card to you.
- Attach this card to the back of the mailpiece, or on the front if space permits.

1. Article Addressed to:

JANE BRADY
820 N. French St.
Wilmington, De
19977

2. Article Number

(Transfer from service label)

PS Form 3811, February 2004

COMPLETE THIS SECTION ON DELIVERY

A. Signature

X *Chris J. Surh*
B. Received by (Print Name)
Chris J. Surh

☐ Agent☐ Addressee

C. Date of Delivery

D. Is delivery address different from item 1? ☐ YesIf YES, enter delivery address below: ☐ No

3. Service Type

☐ Certified Mail☐ Express Mail☒ Registered☐ Return Receipt for Merchandise☐ Insured Mail☐ C.O.D.

4. Restricted Delivery? (Extra Fee)

☐ Yes

Domestic Return Receipt

102595-02-M-15

July 2nd 2005

HON. M. JANE BRADY
DELAWARE ATTORNEY GENERAL
820. N. FRENCH ST. 12th FLOOR
WILMINGTON DELAWARE 19801

RE: ATTACHED AND REQUEST FOR INTERNAL INVESTIGATION (CRIMINAL)

DEAR ATTNY GEN BRADY,

THE DEPUTY WARDEN* HAS MEMO'S
GRIEVANCES ETC. RELATIVE TO THE ATTACHED INCIDENT OF
CRIMINAL CONDUCT AGAINST MY PERSON AND ON-going C.R.I.P.A.
VIOLATIONS AT S.H.U. - M.H.U. AT D.C.C. SMYRNA.

I AM REQUESTING THAT SOMEONE FROM DEL.
STATE POLICE CONTACT ME HENCE-FORTH AND THAT AN
INDEPENDENT INVESTIGATION IS** CONDUCTED.

I HOPE TO HEAR FROM YOU WITHIN 30 DAYS
HENCEFORTH.

XC: FILE
ATTACHMENTS (4)

* D.E. PIERCE JR.

** 10 DEL.C. § 4001 TO 4010

SINCERELY YOURS
x Shane Hopkins
SHANE HOPKINS
253916 S.H.U #17
1181 PADDOCK RD.
SMYRNA DELAWARE
19977-9679

Exhibit "F"

TO: Colm E. Connolly Esq.

5-16-05

U.S. Attorney

1007 Orange Tree St.

P.O. Box 2046

Wilmington Delaware

19899-2046

Re: Request For Criminal C.R.I.P.A. Investigation
And 5 USC § 552 F.O.I.A.*

Dear Counsel:

Attached herein is an incident that I am requesting your office conduct an investigation of under C.R.I.P.A. U.S.C. § 1997 provisions, in that the incident is an on-going pattern of conduct that is related to File #02-22 of the Delaware A.C.L.U. based on the same illegal conduct of State officials upon inmates. I would request that Criminal Charges be instituted henceforth.

I would also request under *Freedom Of Information Act that you disclose the number of Assault Cases your department has investigated in the past 5 years. This would be a request for the names of victims and Correctional officers involved.

CC: Attorney General

Sincerely Yours

Jane M. Brady

Acfu, D.N. FINELLE Esq.

X
Shane Hopkins #00253918

cc: Fil. Attachments

P. #51

F0085

Colm F. Connolly Esq.
UNITED STATES ATTORNEY
1007 ORANGE STREET
STE 700
PO BOX 2046
Wilmington DELAWARE 19899-2046

MAY, 20, 2005

RE: 2ND ATTEMPT AND INTERFERENCE OF ACCESS
TO ASSERT A C.R.I.P.A. VIOLATION

DEAR U.S. ATTN Y CONNOLLY:

ON/BEFORE 5-16-05 I
SUBMITTED THE ATTACHED LETTER TO THE LAW
LIBRARIAN, STATE PERSONNEL BRIAN ENGREM FOR COPY
SERVICE. ATTACHED TO IT WAS GRIEVANCE #9907 AND
#9908 AND A 5-5-05 LETTER TO DEPUTY WARDEN
D.E. PIERCE JR. BRIAN ENGREM REFUSED TO COPY
AFORESAID. ON 5-10-05 I RECEIVED ALL MATERIAL BACK
WITH A MEMO SAYING:

"LETTERS TO STAFF AND GRIEVANCES
ARE NOT CONSIDERED LEGAL PHOTOCOPIES."

ON 5-10-05 I RESUBMITTED THE GRIEVANCES
AND LETTER TO BRIAN ENGREM ASKING HIM WHAT POLICY,
PROCEDURE OR CUSTOM HE IS APPLYING IN DENYING ME

CONT.

FROM DOCUMENTING LEGAL ATTACHMENTS TO SUPPORT MY CLAIM TO YOU UNDER C.R.I.P.A. ON 5-13-05 I AGAIN RECEIVED "NO" REPLY AND THE SAME AFORESAID SUBMISSIONS BACK UNCOPIED.

I HAVE THUS INSTITUTED A GRIEVANCE AS TO THE AFORESAID AND I HAVE ADVANCED THE ENCLOSED AFFIDAVIT OUT-LINING THE ENTIRE INCIDENT AND UP TO DATE PATTERN OF RETALIATORY ACTS, GESTURES AND NOW THE AFORESAID ATTEMPT TO ASSERT AND NOTIFY YOUR OFFICE.

I WOULD REQUEST NOW, TO ADDENDUM MY 5-16-05 LETTER TO INCLUDE DENIAL OF ACCESS TO THE COURTS BASED ON MY UNDERLINING C.R.I.P.A. VIOLATIONS AND NOW HINDERING MY ACCESS TO THE COURTS VIA YOUR OFFICE. IN WHICH, I WISH FOR AN INVESTIGATION INTO THE PATTERN OF INCIDENTS DOCUMENTED IN CASE NO. 02-22 WITH THE ACLU OF D.E. SINCE 2002, I DEMAND THAT YOUR OFFICE CONDUCT A C.R.I.P.A. INVESTIGATION AND I AUTHORIZE YOU TO OBTAIN MY AND OTHER INMATES SUBMISSIONS TO D.E. ACLU UNDER CASE NO. 02-22. THE AMOUNT OF SUBMISSIONS CONTAINED THEREIN "WOULD" WARRANT A FEDERAL INVESTIGATION.

CONT.

I would also question, as to Federal Civil R.I.C.O. violations attached to these incidents by private and state entities over the past 4 yrs.

Upon notification from your office I will advance my grievances and other documentations to support my claims aforesaid.

Thank you for your prompt attention to the aforesaid.

Sincerely Yours, . .

Shane Hopkins

SHANE HOPKINS #00253918

XC: File

CC: M. JANE BRADY

DREWRY NASH FENNEL ✓

JANET LEBAN D.C.J.S

ATTACHMENTS: (9) PAGE AFFIDAVIT OF CRIPA
VIOLATIONS AND 5-16-05 LETTER

NOVEMBER 15, 2005

Colm F. Connolly Esq
U.S. ATTORNEY FOR DELAWARE
1007 ORANGE STREET STE 700
P.O. Box 2046
Wilmington DELAWARE
19899-2046

RE: 2ND REQUEST

DEAR COUNSEL,

SINCE I HAD A VISIT ON 10-4-05 BY
F.B.I AGENT B. WISE I'VE WRITTEN YOU TO REQUEST
A COPY OF THE AGENTS REPORT. SUBMITTED TO YOU AS TO
THE INVESTIGATORY PROCESS UNDER C.R.I.P.A. ENCLOSED
I WOULD ADDENDUM THE REPORT FINDINGS WITH THE
ATTACHED (2) AFFIDAVITS I'VE DONE THEREFROM.

PLEASE FORWARD THIS TO THE AGENT
AND/OR SEND ME A COPY OF THE REPORT SUBMITTED TO
YOUR OFFICE.

XC: FILE

CC: AGENT BRENDA WISE F.B.I OFFICE WILM DE.

ATTACHMENT(S): 2 AFFIDAVITS

Exhibit 3
#

SINCERELY YOURS,

Shane Hopkins

SHANE K. HOPKINS
2539K 17-A-L#4
1151 Paddock Rd
SMYRNA DELAWARE 19977

ATTACHMENTS
SECTION "F"

JANUARY 24, 2006

STEPHEN A. HAMPTON Esq.
GRADY + HAMPTON L.L.C.
6 NORTH BRADFORD STREET
DOVER DELAWARE 19904

RE: ATTACHED AND REQUEST FOR REPRESENTATION.

DEAR COUNSEL,

PLEASE REVIEW THE ATTACHED COMPLAINT AND
NOTIFY OF YOUR INTENT TO EXCEPT MY CASE FOR REPRESENTATION
I HAVE ALSO ENCLOSED FOLLOW-UPS FILED BEYOND THE 12-15-05
DOCKETING OF THE COMPLAINT.

THANK YOU FOR YOUR TIME AND CONSIDERATION HEREIN.

XC: FILE

ATTACHMENTS: COPY COMPLAINT 05-870

- (1) 10-20-05 AFFIDAVIT
- (1) 11-18-05 FOLLOW UP.
- (1) 12-27-05 3RD REQUEST
- (1) 1-24-06 A.C.L.U. LETTER

SINCERELY YOURS

Shane Hopkins

SHANE HOPKINS

#253916 17-A-L#4

1181 PADDOCK RD.

SMYRNA DELAWARE

19977

Exhibit
1/24

REC-3-17-06

PERRY & SENSOR

ATTORNEYS AT LAW

SUITE 560, FIRST FEDERAL PLAZA
POST OFFICE BOX 1568
WILMINGTON, DELAWARE 19899

JAMES T. PERRY*
MICHAEL L. SENSOR*

*ALSO ADMITTED IN NEW JERSEY

(302) 655-4482

FACSIMILE (302) 655-4043

WRITER'S ELECTRONIC MAIL:
msensor@perry-sensor.com

March 16, 2006

Shane Hopkins
SBI# 00253918
Delaware Correction Center
1181 Paddock Road
Smyrna, DE 19977

RE: Request for Representation

Dear Mr. Hopkins:

This will acknowledge my receipt of several papers from you and Ronald Proctor concerning a possible claim against the Department of Corrections and other individuals. Please be advised that after reviewing these documents, I have concluded I will be unable to assist you. Accordingly, I am withdrawing entirely from this matter and will take no action on your behalf.

Thank you for thinking of me in connection with this matter.

Very truly yours,

PERRY & SENSOR

By: Michael L. Sensor

MLS/cms

PG#57

ATTACHMENTS
SECTION "G"

STATE OF DELAWARE)
) SS
COUNTY OF NEW CASTLE)

AFFIDAVIT OF: SHANE K. HOOKINS
DATED: OCTOBER 20th 2005

AFFIDAVIT

I, SHANE K. HOOKINS, being first duly sworn deposes and says that the foregoing statement is a true and correct observation of what occurred on the above date herein at/in SECURE HOLDING UNIT # 17 located in the Delaware Correctional Center, Smyrna, Delaware, in that I was a part of or witnessed the incident described herein. I would clearly state under penalty of perjury of the laws of the State of Delaware.

ON 10-4-05 BRENDA WISE OF THE FEDERAL BUREAU OF INVESTIGATIONS WILMINGTON DELAWARE DIVISION CAME TO INTERVIEW ME CONCERNING AN ASSAULT APON ME BY CORRECTIONAL OFFICERS

AFTER RELATING TO MRS. WISE THE EXACT NATURE OF THIS ASSAULT AGENT WISE INFORMED ME THAT SHE WAS UNABLE TO CONDUCT A FORMAL INVESTIGATION BECAUSE OF A LACK OF RECOURCES. AGENT WISE STATED THAT I HAD ONLY RECIEVED WHAT SHE CONSIDERED TO BE MINOR INJURIES, RE: BLACK EYES AND CUTS AND BRUISES. AND THAT IN ORDER FOR HER TO CONDUCT A FORMAL INVESTIGATION I WOULD HAVE TO RECIEVE BROKEN BONES OR PERMANENT PHYSICAL SCARRING.

Affiant: Shane Hookins Shane Hookins
Signature

SHANE K. HOOKINS
Print Name

Delaware Correctional Center
Smyrna, DE. 19957

SWORN TO AND SUBSCRIBED before me this 4th day of November, 2005.

My Commission Expires: 6-14-06

M. J. [Signature]
Notary Public

STATE OF DELAWARE SS
COUNTY OF NEW CASTLE SS

AFFIDANT OF SHAMEL HOPKIN
October 20th 2005

I TOLD AGENT WISE THAT THE ATTACK WAS UNPROVOKED AND UNJUSTIFIED BECAUSE I DID NOT RESIST THE CORRECTIONAL AT ANY TIME. I TOLD AGENT WISE THAT IT WAS UNJUST AND FRIGHTENING TO BE PHYSICALLY ABUSED BY THESE CORRECTIONAL OFFICERS AFTER I HAD BEEN CONSIDERED RESTRAINED BY HANDCUFFS AND PEPPER SPRAY. I TOLD MRS. WISE THAT IT WAS UNFORTUNATE THAT A PERSON HAD TO HAVE BROKEN BONES OR STITCHES IN ORDER FOR SOMEONE TO TAKE NOTICE AND RESPOND TO SUCH A HIGHLY DISPROPORTIONATE RESPONSE.

I INFORMED AGENT WISE THAT PICTURES HAD BEEN TAKEN OF MY INJURIES AND THAT IF SHE SAW THEM IT WOULD BE OBVIOUS THAT AN ASSAULT HAD TAKEN PLACE AGAINST ME BECAUSE OF MY NUMEROUS INJURIES COMPARED TO THE CORRECTIONAL OFFICERS WHO RECEIVED NO INJURIES OF ANY KIND.

I TOLD AGENT WISE OF HOW FRIGHTENED I WOULD BE IF I WERE EVER TO COME UNDER THEIR DIRECT SUPERVISION AGAIN BECAUSE I HAD TRIED EVERY AVERAGE OF HAVING THIS ISSUE ADDRESSED WITHIN THE INSTITUTION RE: WRITING DEPUTY WARDEN PIERCE AND INSTITUTIONAL INTERNAL AFFAIRS WITHOUT ANY MEANINGFUL RESPONSE TO MY CONCERNS.

: CONT: PG. # 3 of 3

STATE OF DELAWARE § §
 COUNTY OF NEW CASTLE

AFFIDAVIT OF SHARON K. HOPKIN
 OCTOBER 20TH 2005

I TOLD AGENT WISE THAT IT IS PROVEN THAT NO ONE WITHIN THE INSTITUTION WILL TAKE ACTION AGAINST CORRECTIONAL OFFICERS WHO ABUSE THEIR POWER AND CONDUCT THEMSELVES IN AN UNPROFESSIONAL MANNER.

I RELATED TO AGENT WISE THAT HAD I MADE ANY PHYSICAL ATTEMPT TO DEFEND MYSELF AGAINST THIS ATTACK THAT I WOULD BE FACING CHARGES IN A COURT OF LAW AND THAT I FEARED THE CONSEQUENCES OF MY ACTIONS.

AGENT WISE ASKED ME IF THIS KIND OF INCIDENT TOOK PLACE OFTEN AND I ASSURED HER THAT I HAD PERSONALLY WITNESSED UNJUSTIFIED ^{ATTACKS} ON FULLY RESTRAINED AND DEFENSELESS INMATES.

AGENT WISE TOLD ME THAT SHE WAS NOTING MY COMPLAINT AND WOULD KEEP IT ON FILE.

SWORN TO AND SUBSCRIBED
 BEFORE ME THIS 4TH DAY OF
 NOVEMBER 2005

x Sharon Hopkin

x Brian W. Ingram
 Notary

ATTACHMENTS
SECTION "H"

FORM #584

PG # 1 of 2

GRIEVANCE FORM

FACILITY: D.C.C. Smyrna DATE: MAY 2nd 2006
 GRIEVANT'S NAME: SHANE K. HOPKINS SBI#: #253918
 CASE#: 40703 TIME OF INCIDENT: 7:30 P.M.
 HOUSING UNIT: M.H.U #21-BL #7

BRIEFLY STATE THE REASON FOR THIS GRIEVANCE. GIVE DATES AND NAMES OF OTHERS INVOLVED IN THE INCIDENT OR ANY WITNESSES.

ON 4-29-06 I WAS ESCORTED TO Building #24 FOR A PRELIMINARY HEARING INVOLVING A DISCIPLINARY WRITE-UP. AFTER I SIGNED MY COPY OF THE DISCIPLINARY REPORT I WAS ASKED BY LT. B. REYNOLDS TO STEP OUT INTO THE HALLWAY WHERE SGT. TRADER WAS WAITING. SGT. TRADER ASKED ME IF MY NAME WAS SHANE HOPKINS AND WHEN I TOLD HIM IT WAS SGT. TRADER STEPPED CLOSE TO ME AND SAID "I KNOW EXACTLY WHO YOU ARE. YOU'RE THE INMATE WHO HAS FILED A LAWSUIT AGAINST C/O SMITH AND C/O PUSEY. I HAVE READ THE WHOLE COMPLAINT. WE ALL KNOW WHO YOU ARE."

SGT TRADER IS NOT A PARTY NAMED IN THE CIVIL ACTION THAT →

CONTINUED PG#2

ACTION REQUESTED BY GRIEVANT: BECAUSE THE THREAT TO MY PERSONAL SAFETY COMES FROM PRISON INSTITUTIONAL STAFF AND CORRECTIONAL OFFICERS I REQUEST AN ADMINISTRATIVE TRANSFER TO ANOTHER INSTITUTION.

GRIEVANT'S SIGNATURE: _____ DATE: _____

WAS AN INFORMAL RESOLUTION ACCEPTED? _____ (YES) _____ (NO)

(COMPLETE ONLY IF RESOLVED PRIOR TO HEARING)

GRIEVANT'S SIGNATURE: _____ DATE: _____

IF UNRESOLVED, YOU ARE ENTITLED TO A HEARING BY THE RESIDENT GRIEVANCE COMMITTEE.

cc: INSTITUTION FILE
GRIEVANT

RECEIVED

MAY 05 2006

April '97 REV

Inmate Grievance Office

GRIEVANCE

PG #2 of 2

CONT:

I FILED WITH THE COURTS CONCERNING AN ASSAULT APOON MY PERSON BY SEVERAL CORRECTIONAL OFFICERS.

SGT TRADER AND HIS CO-WORKERS KNOWLEDGE OF THIS CIVIL ACTION HAS CREATED AN ENVIRONMENT THAT IS BIASED AGAINST ME AFFECTING HOW I AM TO BE TREATED AS EVIDENCED BY THE FRIVOLUS WRITE-UP I RECIEVED AT THE HANDS OF C/O GLICK. C/O GLICK TOOK A COMPLETELY INANE OBJECT AND MADE IT APPEAR SINISTER. C/O GLICK THEN CONFRONTED ME IN AN INAPPROPRIATE MANNER BLATANTLY ATTEMPTING TO GET ME TO REACT IN A "THREATENING AND DISORDERLY" MANNER BY MAKING REPEATED ANTAGONISTIC COMMENTS ABOUT HOW HE "GOT ME" WITH A DISCIPLINARY REPORT.

BECAUSE OF THESE RETALIATORY ACTIONS BY CORRECTIONAL OFFICERS I FEAR FOR MY PHISICAL SAFETY. THE ANTAGONISTIC COMMENTS FROM C/O GLICK WHERE MADE WITH THE INTENTION OF PROVOKING A RESPONSE FROM ME IN ORDER TO JUSTIFY AN ATTACK AND ASSAULT APOON MY PERSON.

XC: File

SHANE K. HOPKINS
#253916
M.H.U. #21-B-L#7

ATTACHMENTS
SECTION "I"

Case # 02-22

TO: Diane Winters
From: Shane Hopkins #253918
D.C.C.
1181 Paddock Rd.
Smyrna De. 19977

Date
10-10-02

Mrs Winters,

Inclosed you will find all of the information you requested from me concerning my treatment at the hands of the OFFICIALS at D.C.C.

This includes a drawn up Civil Action Law Suit that was never filed by me because of my ignorance in how to file properly. This packet also includes a drawn up law suit from Melvin Posey who also believes he was mistreated at the hands of prison officials. Mr. Posey is currently trying to persue his Complaint in Court. Thier are also Copies of Grievances Filed by me Soon after the incidents and the Grievance Boards responses. Thier are 2 additional Statements given to me by inmates who where also mistreated. These Statements where taken over 1 year ago and the only reason I still have them is because I appear to be a paperwork packrat. One Statement from Lawrance rambles on about many Subjects that you are not concerned with. However he tells of how he got Pneumonia From being placed in an air Conditioned Cell without any cloathing, blanket, mattress or anything at all for a prolonged period of time.

F0001

→ over

And that he had to be given a penicillin Shot from medical.

Another Statement is From Louis Dickerson. Please forgive him, he is not exactly the Sharpest Crayon in the box and is obviously borderline retarded. But that is exactly why these Correctional Officers get away with treating him the way they do. The incident he speaks about was witnessed by roughly 50 inmates. Louis was hogtied and his whole head was Duck Taped over his mouth and around his head. And the result of the Duck Tape being removed from around his head was disgusting, large patches of hair was ripped from his head quite possibly scarring him for life. I could go on and on about the messed up things done to him.

My Complaint is simple. I was assaulted by a Correctional officer while handcuffed and my legs shackled. A nurse and 2 Doctors watched this incident and then refused to provide medical attention to me even though I asked repeatedly. They refused at the request of Lt. Fetzer who did this in order to cover up the incident. I requested that pictures be taken of myself and the room that I was beaten in. If I had been in a fight with another inmate pictures would have been taken of both of us but no pictures were taken because a Correctional Officer was involved.

And do you know what's crazy? I can live with being beaten while defenseless. Even though it was wrong I have gotten over it. But I can't get over being placed in an air conditioned, freezing cold, concrete room. Completely naked, not even underwear.

Over 1 year later and I can still remember crouching in the cell corner naked and shivering uncontrollably for 15 days a correction officers male and female looked in on my naked shivering self and laughed at me. The air conditioning was turned up full blast, cold was part of the punishment and it drove me quite literally crazy. No mattress or blanket of course. Nothing but a stainless steel toilet and the cold concrete floor from 5:00 AM to 10:00 PM. Then I was given a mattress and a paper sheet that was nothing more than a large paper ^{towel} ~~garment~~.

Needless to say I got out of that room after 15 days. But I ended up in trouble again after prison officials confiscated all of my legal work that was being done concerning the way I was treated. I complained long and loud and they took me back to one of those "Strip Cells" and when I refused to give them my clothing I was held against the cell wall while Security Chief Cunningham cut my clothes off of my body with a pocket knife.

PG. # 4

I think I ~~lasted~~ lasted about 3 hours in that Cold room Completely naked befor I went Crazy and bit my hands, ~~and wrists~~ and wrists untill blood pured from my body. Thats right even the most Sanest man can be driven to extreame if put under insane Conditions. But at the time I Felt that the pain and Consequences would be only momentary while the Suffering of that Cold Cell would last. Luckily a guard Came to Check on me and I was given medical treatment and placed in a heated room in the infirmary. Pictures where taken of me in this Condition and I can think of at least 20 others who where placed in these Strip Cells.

Everything I've told you is true and plenty of others have been in the Same Situation. No one was allowed to use the phone to inform Family members of the way they where being treated. No letters where written to Family because no one Could write, No pen.

Plenty of inmates have plenty of petty gripes about the institutions in wich they are Serving time. This is not a petty gripe. This is an obvious and Flagrant violation of my rights weather I'm a prisoner or not and it definitely is ~~cruel~~ Cruel Punishment ment to demean and humiliate.

PG # 5

You've asked for any information I could provide and I've given what I can think of at the moment. My question to you is do you think being placed in a Cold Cell naked is right? And if not is it your intention to help put a stop to this form of punishment.

I don't know much about the law and my family was at a loss as to what to do about it. So time has passed and they say wounds heal with time. But when I think about it the humiliation back along with the anger.

Please let me know once you have received this letter. And if you need anything else just ~~help~~ ask.

P.S. I'm Sorry it took so long to get this packet to you. I have been temporarily transferred to Delaware County Prison in P.A. I will be back in Smyrna soon. IF you need to send me anything in the meantime sent it to my mother at:

Carol Hopkins
355 Zynn Rd
Downingtown P.A.
19335

FORM #584

GRIEVANCE FORM

FACILITY: D.C.C. Smyrna DATE: July 16th 2001
 GRIEVANT'S NAME: Shane Hopkins SBI#: 253918
 CASE#: _____ TIME OF INCIDENT: Approx. 11:30 AM
 HOUSING UNIT: # 18-S.HU C-tier

BRIEFLY STATE THE REASON FOR THIS GRIEVANCE. GIVE DATES AND NAMES OF OTHERS INVOLVED IN THE INCIDENT OR ANY WITNESSES.

On July 16th at approx. 11:30 Am I was escorted off of A tier Building #17 ~~and~~ by Officers - Anthony Fuentes - Richard Pratt - And Newt. I was taken to the observation room where Officer Newt placed leg shackles on. Officer Fuentes then entered the room and threatened me concerning a Verbal altercation we had approx. 3 weeks previously.

Officer Fuentes struck me with a closed fist in the mouth and nose area and placed both his hands around my throat and began to squeeze until my airway was closed and I was rendered nearly unconscious.

ACTION REQUESTED BY GRIEVANT: I want to file formal charges for assault against officer Fuentes.

Officer Fuentes should be suspended or fired for this unjustified attack.

GRIEVANT'S SIGNATURE: Shane Hopkins DATE: 7/28/01

WAS AN INFORMAL RESOLUTION ACCEPTED? _____(YES) _____(NO)

(COMPLETE ONLY IF RESOLVED PRIOR TO HEARING)

GRIEVANT'S SIGNATURE: _____ DATE: _____

RECEIVED

JUL 03 2001

Inmate Grievance Office

IF UNRESOLVED, YOU ARE ENTITLED TO A HEARING BY THE RESIDENT GRIEVANCE COMMITTEE.

cc: INSTITUTION FILE
GRIEVANT

Instructions for Submitting a Regular Grievance

Inmates are required, per DOC Procedure 4.4 [Inmate Grievance Procedure] to attempt to resolve complaints prior to filing a regular grievance. Grievances are to be submitted within seven(7) days from the date of the occurrence or incident or within seven days after the inmate became aware of the incident. The grievance is to be placed in the grievance box located in each housing unit.

Only one issue per grievance form will be addressed. If the grievance is submitted on a weekend or a holiday, it will be recieved during the next working day.

Return of Unprocessed Grievance

Intake Action: This Grievance Form is being returned to the inmate under the provisions outlined in DOC Procedure 4.4 "Inmate Grievance Procedure" for the following reason(s):

Vulgar/Abusive or Threatening Language. The language that is unacceptable has been highlighted. The grievance may be resubmitted omitting this language.

Non-Grievable. This issue has been defined as non-grievable in accordance with DOC Policy 4.4. These procedures have their own appeal process that must be followed. _____ Disciplinary Action _____ Parole Decision
_____ Classification Action

Request. Requests are not processed through the grievance procedure. Please correspond with the appropriate office to secure the information that is requested.

Duplicate Grievance(s). This issue has been addressed previously in
Grievance # _____.

Original Grievances must be submitted to the Inmate Grievance Chairperson.
Photocopies are not accepted.

Inquiry on behalf of other inmates. Inmates cannot submit grievances for other inmates.

Expired filing period. Grievance exceeds seven(7) days from date of occurrence.

15-00000

Figure 1. The effect of the concentration of the *Agrobacterium* suspension on the transformation efficiency of *Agrobacterium* strains.

SECRET

Inmate Grievance Chairperson

Date _____

**DELAWARE CORRECTIONAL CENTER
INMATE GRIEVANCE OFFICE**

To: Hopkins, Shane
From: Officer L.M. Merson, Inmate Grievance Chairperson
Date: Tuesday, August 14, 2001
Re: GRIEVANCE (S)

**I HAVE RECEIVED YOUR GRIEVANCE (S) DATED 07/16/01, THE GRIEVANCE (S) ARE
REJECTED FOR THE FOLLOWING REASON (S):**

- ☐ SECURITY ISSUE (INVOLVES THE SECURITY & STAFFING OF THE INSTITUTION AND THE SAFETY, HEALTH AND/OR WELFARE OF INMATES, STAFF AND THE PUBLIC)
- ☐ CLASSIFICATION ISSUES (JOBS, TRANSFERS, PROGRAMS, ETC. IT HAS IT'S OWN APPEAL PROCESS. I.B.C.C.: MS. E. STEVENSON, C.I.C.B.: MS. F. LEWIS AND I.R.C.B.: MR. H. YOUNG)
- ☒ DISCIPLINARY ISSUE (M. A. B. WRITE-UP'S HAVE THEIR OWN APPEAL PROCESS. THE HEARING OFFICERS ARE LT. K. REYNOLDS, S/LT. B. WILLIAMS AND LT. SCOTT.)
- ☐ AN INMATE DOES NOT HAVE THE POWER TO REQUEST OR DEMAND DISCIPLINARY ACTION ON STAFF. THE IGC DOES NOT HAVE THE POWER TO HOLD HEARINGS ON STAFF. IF YOU HAVE A COMPLAINT REGARDING STAFF, WRITE A LETTER TO THAT PERSONS SUPERVISOR. IN YOUR CASE THAT IS: Capt. Belanger
- ☐ PAROLE BOARD ISSUE.
- ☐ IT IS AN ISSUE THAT HAS ALREADY BEEN GRIEVED BY YOU OR ANOTHER INMATE (IF GRIEVED BY ANOTHER, YOU MAY REQUEST, IN WRITING, TO BE ADDED TO THE FIRST GRIEVANCE MAKING IT A GROUP ISSUE.)
- ☐ IT IS UNACCEPTED BECAUSE IT HAS PASSED THE SEVEN (7) DAY TIME FRAME ALLOTTED TO FILE A GRIEVANCE.
- ☐ IT IS A PHOTO COPY, CARBON COPY, WRITTEN IN PENCIL OR RED INK (SUBMIT ORIGINAL FORMS ONLY, WRITE IN BLACK OR DARK BLUE INK ONLY.)
- ☒ OTHER: You will have to write to the Institutional Investigator. The IGC does not have the power to press charges.

cc: File

FORM #584

GRIEVANCE FORM

FACILITY: D.C.C. Smyrna DATE: July 16th - 30th 2001
 GRIEVANT'S NAME: Shane Hopkins SBI#: 253918
 CASE#: _____ TIME OF INCIDENT: Beginning approx. 2:35 PM.
 HOUSING UNIT: #18 - SHU C-tier

BRIEFLY STATE THE REASON FOR THIS GRIEVANCE. GIVE DATES AND NAMES OF OTHERS INVOLVED IN THE INCIDENT OR ANY WITNESSES.

I have been placed in an Air Conditioned Building /
Cell for 15 days without any under clothes (socks, shirt and underwear)
I have not been provided with Sheets, Blanket and
for all but 6 hours a night Mattress.
I have been repeatedly denied Toothbrush and Toothpaste.
I Am being held in Cold and in humane Conditions
despite numerous pleas to be given basic amenities.
This is in Violation of My 8th Amendment Constitutional
Rites By Subjecting me to Cruel And Unusual punishment.

ACTION REQUESTED BY GRIEVANT: To be provided with the basic
needs of a person unable to obtain them for himself.
Stop Subjecting myself and others with treatment
Unconstitutional and Mentally / Physically demeaning.

GRIEVANT'S SIGNATURE: Shane Hopkins DATE: 7/30/01

WAS AN INFORMAL RESOLUTION ACCEPTED? _____ (YES) _____ (NO)

(COMPLETE ONLY IF RESOLVED PRIOR TO HEARING)

GRIEVANT'S SIGNATURE: _____ DATE: _____

IF UNRESOLVED, YOU ARE ENTITLED TO A HEARING BY THE RESIDENT GRIEVANCE COMMITTEE.

cc: INSTITUTION FILE
 GRIEVANT

April '97 REV

F0031

PG# 71

RECEIVED
 JUL 03 2001
 Inmate Grievance Office

**DELAWARE CORRECTIONAL CENTER
INMATE GRIEVANCE OFFICE**

To: I/M Hopkins, Shane SH18
From: Officer L.M. Merson, Inmate Grievance Chairperson
Date: Monday, August 06, 2001
Re: GRIEVANCE (S)

received
EB
8/12/01

**I HAVE RECEIVED YOUR GRIEVANCE (S) DATED 07/16/01, THE GRIEVANCE (S) ARE
REJECTED FOR THE FOLLOWING REASON (S):**

- ☐ SECURITY ISSUE (INVOLVES THE SECURITY & STAFFING OF THE INSTITUTION AND THE SAFETY, HEALTH AND/OR WELFARE OF INMATES, STAFF AND THE PUBLIC)
- ☐ CLASSIFICATION ISSUES (JOBS, TRANSFERS, PROGRAMS, ETC. IT HAS IT'S OWN APPEAL PROCESS. I.B.C.C.: MR. L. BOYLE, C.I.C.B.: MS. F. LEWIS AND I.R.C.B.: MR. H. YOUNG)
- ☒ DISCIPLINARY ISSUE (M. A. B. WRITE-UP'S HAVE THEIR OWN APPEAL PROCESS. THE HEARING OFFICERS ARE LT. K. REYNOLDS, S/LT. B. WILLIAMS AND LT. SCOTT.)
- ☐ AN INMATE DOES NOT HAVE THE POWER TO REQUEST OR DEMAND DISCIPLINARY ACTION ON STAFF. THE IGC DOES NOT HAVE THE POWER TO HOLD HEARINGS ON STAFF. IF YOU HAVE A COMPLAINT REGARDING STAFF, WRITE A LETTER TO THAT PERSONS SUPERVISOR. IN YOUR CASE THAT IS:
- ☐ PAROLE BOARD ISSUE.
- ☐ IT IS AN ISSUE THAT HAS ALREADY BEEN GRIEVED BY YOU OR ANOTHER INMATE (IF GRIEVED BY ANOTHER, YOU MAY REQUEST, IN WRITING, TO BE ADDED TO THE FIRST GRIEVANCE MAKING IT A GROUP ISSUE.)
- ☐ IT IS UNACCEPTED BECAUSE IT HAS PASSED THE SEVEN (7) DAY TIME FRAME ALLOTTED TO FILE A GRIEVANCE.
- ☐ IT IS A PHOTO COPY, CARBON COPY, WRITTEN IN PENCIL OR RED INK (SUBMIT ORIGINAL FORMS ONLY, WRITE IN BLACK OR DARK BLUE INK ONLY.)
- ☒ OTHER: You were on strip cell for disciplinary reasons.

cc: File

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SHANE HOPKINS,
Plaintiff,

v.

ANTHONY FUENTES, CORPORAL, C.OFFICER,
JOSEPH H. BELANGER, CAPTAIN, C.OFFICER,
LARRY FETZER, LIEUTENANT, C.OFFICER,
JAMES GARDES, C.OFFICER,
RICHARD PRATT, C.OFFICER,
JOHN MITCHELL, MEDICAL NURSE,
JOHN DOES, 1-10.

DEFENDANTS.

CIVIL ACTION

COMPLAINT

JURY TRIAL
DEMANDED

No. _____

SHANE HOPKINS #253918
DELAWARE C. CENTER
1181 PADDOCK Rd
SMYRNA, DE. 19977

IN PROPRIA PERSONAM

I. JURISDICTION AND VENUE

1. THIS IS A CIVIL ACTION ALLEGING DELIBERATE INDIFFERENCE, AND CRUEL AND UNUSUAL PUNISHMENT, IN VIOLATION OF THE 8TH AND 14TH AMENDMENTS TO THE UNITED STATES CONSTITUTION, OF PLAINTIFFS CONSTITUTIONAL RIGHT, UNDER 42 U.S.C. §1983; DISPERATE TREATMENT IN VIOLATION OF EQUAL PROTECTION OF THE LAWS AFFORDED UNDER THE 14TH AMENDMENT TO THE UNITED STATES CONSTITUTION.

2. PURSUANT TO 42 U.S.C. §1983, THIS COURT HAS SUBJECT MATTER JURISDICTION OF PLAINTIFFS CLAIMS FOR RELIEF FOR THE VIOLATIONS OF HIS RIGHTS, PRIVILEGES OR IMMUNITIES SECURED BY THE UNITED STATES CONSTITUTION AND LAWS UNDER THE 8TH AND 14TH AMENDMENTS AND TO BE AFFORDED EQUAL PROTECTION OF THE LAWS.

3. PURSUANT TO 28 U.S.C. §1331, THIS COURT HAS SUBJECT MATTER JURISDICTION OF PLAINTIFFS 42 U.S.C. §1983 CLAIMS BECAUSE IT IS A CIVIL ACTION ARISING UNDER THE LAWS OF THE UNITED STATES.

4. VENUE IS PROPER IN THIS DISTRICT PURSUANT TO 28 U.S.C. §1391, IN THAT THE DISTRICT OF WILMINGTON, IS A JUDICIAL DISTRICT IN WHICH A SUBSTANTIAL PART IF NOT AS WHOLE THE EVENTS GIVING RISE TO THE CLAIMS ARISED.

II.

PRESENT CONFINEMENT

DELAWARE CORRECTIONAL CENTER
1181 PADDOCK Rd. / #253918
SMYRNA DE 19977

III.

PLAINTIFF:

SHANE HOPKINS

DEFENDANTS:

1. DEFENDANT ANTHONY FUENTES, is EMPLOYED AS A CORPORAL CORRECTIONAL OFFICER, AT THE DELAWARE CORRECTIONAL CENTER.

DEFENDANT AS A CORPORAL CORRECTIONAL OFFICER, is in CONTROL AND SUPERVISION OF BUILDING 17, SECURITY HOUSING UNIT, AS THE ASSIGNED BUILDING OFFICER. DEFENDANT IS RESPONSIBLE OF THE CARE AND TREATMENT OF THE PRISONERS. HE IS BEING SUED IN HIS OFFICIAL AND INDIVIDUAL CAPACITY.

2. DEFENDANT RICHARD PRATTS, is EMPLOYED AS A CORRECTIONAL OFFICER, AT THE DELAWARE CORRECTIONAL CENTER.

DEFENDANT AS A CORRECTIONAL OFFICER is INCHARGE OF THE UNIT'S GENERAL DUTIES OF THE DAY AND IS RESPONSIBLE FOR THE CARE AND TREATMENT OF THE PRISONERS. DEFENDANT RECEIVES INSTRUCTIONS AND ORDERS FROM FUENTES. HE IS BEING SUED IN HIS OFFICIAL AND INDIVIDUAL CAPACITY.

3. DEFENDANT JAMES GARDELS, is EMPLOYED AS A CORRECTIONAL OFFICER, AT THE DELAWARE CORRECTIONAL CENTER.

DEFENDANT AS A CORRECTIONAL OFFICER, IS INCHARGE OF THE UNITS' GENERAL DETAILS OF THE DAY AND RECEIVES INSTRUCTIONS AND ORDERS FROM CORPORAL FUENTES. HE IS BEING SUED IN HIS OFFICIAL AND INDIVIDUAL CAPACITY.

4. DEFENDANT JOSEPH H. BELANGER, IS EMPLOYED AS THE CAPTAIN, AT THE DELAWARE CORRECTIONAL CENTER, FOR THE SECURITY HOUSING UNIT.

DEFENDANT AS THE CAPTAIN, IS IN CONTROL AND SUPERVISION OF THE SECURITY HOUSING UNIT. DEFENDANT IS INCHARGE OF THE SPECIAL SEGREGATION UNIT DISCIPLINARY PROCEDURES AND POLICIES. HE IS BEING SUED IN HIS OFFICIAL AND INDIVIDUAL CAPACITY.

5. DEFENDANT L. FETZER IS EMPLOYED AS THE LIEUTENANT, AT THE DELAWARE CORRECTIONAL CENTER, FOR THE SECURITY HOUSING UNIT.

DEFENDANT AS THE LIEUTENANT, IS IN CONTROL AND SUPERVISION OF THE SECURITY HOUSING UNIT, BUILDING 18. DEFENDANT IS INCHARGE OF THE SPECIAL SEGREGATION UNIT, DISCIPLINARY DETENTION OPERATIONS OF BUILDING 18. HE IS BEING SUED IN HIS OFFICIAL AND INDIVIDUAL CAPACITY.

6. DEFENDANT JOHN MITCHELL, IS EMPLOYED AS A MEDICAL NURSE, AT THE DELAWARE CORRECTIONAL CENTER, FOR THE MEDICAL DEPARTMENT.

DEFENDANT AS THE MEDICAL NURSE, IS IN CONTROL OF THE GENERAL DETAILS OF THE DAY FOR THE MEDICAL DEPARTMENT

OPERATIONS AT BUILDINGS 17 AND 18. DEFENDANT IS INCHARGE OF EXAMINING AND TREATING PRISONERS OF WHOM ARE IN NEED OF MEDICAL ATTENTION. HE IS BEING SUED IN HIS OFFICIAL AND INDIVIDUAL CAPACITY.

7. DEFENDANTS JOHN DOES 1-10, AT ALL RELEVANT TIMES, MENTIONED HEREIN WERE EMPLOYEES OF THE DELAWARE CORRECTIONAL CENTER.

DEFENDANTS UPON BELIEF AND INFORMATION WERE ENGAGED IN THE OPERATIONS AND MANAGEMENT OF SECURITY HOUSING UNIT AND WERE INVOLVE IN OTHER ACTIVITIES RELEVANT TO THIS CASE. BEING SUED IN THEIR OFFICIAL AND INDIVIDUAL CAPACITY.

IV. STATEMENT OF FACTS

8. DEFENDANT ANTHONY FUENTES, AS THE CORPORAL OF BUILDING 17, FOR THE SECURITY HOUSING UNIT, HELD CONTROL AND SUPERVISION OF THE DAILY OPERATIONS AND MANAGEMENT OF TIERS A, B, C AND D. DEFENDANT IS RESPONSIBLE OF THE HUMANE TREATMENT OF PRISONERS UNDER HIS CARE AND OTHER RELATED MATTERS.

9. DEFENDANT ON JULY 16, 2001, AT APPROX. 11:30/AM ALONG WITH JAMES GARDELS ("GARDELS") AND RICHARD PRATTS ("PRATTS") DEFENDANTS, EXCORTED PLAINTIFF OUT OF A TIER ONTO A "STRIP CELL" LIKE ROOM. AS PLAINTIFF WAS PLACED INSIDE THE ROOM OFFICER GARDELS, PLACED THE LEG IRON AND LEFT HIM THERE. ABOUT A MINUTE LATER FUENTES, CAME INTO THE STRIP CELL AT WHICH TIME HE BROUGHT UP

AN INCIDENT THAT HAD TAKEN PLACE APPROX. THREE (3) WEEKS PRIOR TO THIS ENCOUNTERED. FUENTES, BEGIN BY SAYING THAT THE PLAINTIFF WAS MISBEHAVING AND THEN HE BROUGHT UP THE VERBAL DISPUTE THAT HAD TAKEN PLACE A COUPLE OF WEEKS AGO. WHERE HE HAD THREATENED HIM WITH INFILTING HIS AUTHORITY, AS HE STATED: "I'LL SHOW YOU, JUST KEEP TALKING."

10. FUENTES, BEGIN TO TRASH TALK TO INSTIGATE A CONFRONTATION AND AFTER NOT FEEDING INTO IT HE BEGIN TO POINT HIS FINGER AT PLAINTIFF'S FACE. AT WHICH TIME PLAINTIFF TOLD HIM TO GET HIS (F-) FINGER OFF HIS FACE. FUENTES, THEN PUSHED HIS FINGER UPON PLAINTIFF'S NOSE, AND PLAINTIFF ATTEMPTED TO BITE HIS FINGER ON HIS ATTEMPT. FUENTES, IN RESPONSE PLACED A SCHOKE HOLD UPON HIS THROAT AND RAN HIM ONTO THE WALL HITTING THE BACK OF HIS HEAD AND CONTINUED TO SQUEEZE UP UNTIL THE AIR WAVE GAVE UPON AND HAVING HIM RENDERED SEMI UNCONSCIENCE. AFTER RECEIVING ALERTNESS FUENTES, STOOD BEFORE HIS FACE TRASH TALKING. PLAINTIFF TRASHED TALKED BACK AND CALL HIM A COWARD AND ASKED HIM TO LOOSEN A CLIFF AND SHOW THE PLAINTIFF HOW BIG AND BAD HE WAS. FUENTES, THEN PROCEEDED TO TURN THE PLAINTIFF AROUND TO UNCLIFF HIM. AS FUENTES BEGIN TO RELEASE SEVERAL CLIFF LINKS TO RELEASE THE CLIFF, THE PLAINTIFF UPON SENSING THE RELEASE JERKED HIS HAND OUT OFF THE CLIFF AND TURNED AROUND TO FACE HIM.

11. AS PLAINTIFF TURNED AROUND TO CONFRONT FUENTES, HE MANAGED TO STRIKE AT THE PLAINTIFF (BEFORE HE WAS FULLY FACE TO FACE WITH FUENTES) CONNECTING UPON THE NOSE AND CHEEK AREA

CAUSING THE PLAINTIFF TO BLEED PROFUSELY, AND BLURRING HIS SIGHT AND KNOCKING OFF HIS GLASSES.

12. AS PLAINTIFF STRUGGLED TO REGAIN BALANCE AND CONSCIENCELESS THE PLAINTIFF MANAGED TO HOLD THE LOOSEN CLIFF INTO HIS HAND. AS PLAINTIFF

STRUGGLED WITH CONSCIOUSNESS AND VISIBILITY, FUENTES, PUNCHED ABOUT THE FACE. 2 TO 3 TIMES APPROX.. TO THE BEST OF HIS RECOLLECTION THE PLAINTIFF HEARD FUENTES CALL FOR OFFICER PRATTS, TO ASSIST HIM. PRATTS, THEN TOOK A HOLD OF THE LEG IRONS AND PULLED THEM CAUSING THE PLAINTIFF TO FALL ONTO THE FLOOR. FUENTES, THEN MANAGED TO TURN PLAINTIFF ONTO HIS BELLY TO ATTEMPT TO RECLIFF HIM. AT WHICH TIME PLAINTIFF HEARD PRATTS MUMBLED SOMETHING NEXT TO HIS FACE AND EAR AREA. THEREAFTER, PRATTS, TOOK HOLD OF PLAINTIFF'S HAIR AND SHOVED HIS FACE ONTO THE FLOOR CAUSING A CUT ONTO HIS LIP AND MOUTH AREA LOOSENING TWO (2) OF HIS TEETH.

13. FUENTES AT WHICH TIME STRUGGLED TO HAVE PLAINTIFF RELEASE HIS HANDS AS PLAINTIFF HELD THEM TOGETHER UNDERNEATH OF HIM TO PREVENT THEM FROM RECLIFFING HIM. PRATTS, THEN WENT TO ASSIST FUENTES, HAVE HIS HAND LOOSEN AND BROUGHT AROUND TO THE BACK AREA. NOT BEING ABLE TO, PLAINTIFF REMEMBERS FUENTES CALL FOR OFFICER GARDELS, WHO WAS OUT THE DOOR OBSERVING THE ENTIRE INCIDENT.

14. GARDELS, THEN GRABBED PLAINTIFF INTO A SCHOcking HOLD UPON HIS NECK AREA HAVING THE PLAINTIFF LOOSE SEMI CONSCIENCE. AS GARDELS SCHOckED HIM AT THE SAME TIME JAMMED HIS FACE AND SHOULDER AREA ONTO THE FLOOR SEVERAL TIMES CAUSING SWELLING AND BRUISING ABOUT THE CHEEK AREA. AT WHICH TIME THEY MANAGED TO RECLIFF HIM.

15. PLAINTIFF WAS THEN LEFT ON THE FLOOR AS THEY FINISHED. WHEN PLAINTIFF WAS ABLE TO GET ENOUGH CONSCIENCE HE STOOD UP AND LOOKED AROUND TO SEE WHAT WAS GOING ON. PLAINTIFF SAW SEVERAL PRISON OFFICIALS STARING AT HIM BRIEFLY AND THEN WALKED OFF.

16. PLAINTIFF SEEING A MEDICAL DOCTOR NEARBY BEGIN TO ASK THEM TO TREAT HIM AT WHICH TIME THE NURSE, JOHN MITCHELS, LOOKED FROM THE OUTSIDE DOOR AREA AND WINDOW ONTO PLAINTIFF, TURNED AROUND SAID SOMETHING TO THE DOCTOR AND DID NOT COME WITH ANY OF THE OFFICERS TO LOOK AND TREAT HIS WOUNDS. PLAINTIFF CONTINUED TO SHOUT AT THEM TO TREAT HIM OVER AND OVER AND INSTEAD THEY WALKED OFF WITHOUT PROVIDING THE MEDICAL CARE NEEDED.

17. AT APPROX. ONE AND A HALF (1 1/2) HOURS IN THAT ROOM LIEUTENANT, LARRY FETZER, CAME OVER TO PICK HIM UP AND TAKE HIM OVER TO BUILDING 20. AT WHICH TIME THE PLAINTIFF TOLD FETZER TO LOOK AT WHAT FUENTES, PRATTS AND GARDELS, HAD DONE TO HIM. PLAINTIFF THEN ASKED HIM IF HE WAS GOING TO PROVIDE THE PLAINTIFF ANY MEDICAL TREATMENT, THAT HE HAD A HEADACHE. FETZER SAID LATER THAT AT THAT MOMENT HE HAD TO BE TAKEN TO BUILDING 20. PLAINTIFF THEN ASKED HIM TO TAKE PHOTOS OF THE FACE, HE EVADED THE CONVERSATION AND WHEN PLAINTIFF REFUSED TO GO, FETZER THEN SAID THAT HE'LL SPEAK WITH CAPTAIN, JOSEPH H. BELANGER.

18. PLAINTIFF THEN WENT WITH FETZER, AND ON HIS WAY TO THE BUILDING ONE PRISONER THAT LOCKED IN CELL LOWER 1, OF A TIER THAT KNOWS THE PLAINTIFF KNOCKED ON HIS CELL WINDOW AND CALLED HIM. AT WHICH TIME AFTER MICHAEL SANTIAGO, SAID PRISONER, SAW MY CONDITIONS HE SCOUTED BACK TO THE PLAINTIFF AFTER PLAINTIFF YELLED TO HIM THAT THE POLICE BEAT HIM.

19. FETZER, PROCEEDED TO PLACE THE PLAINTIFF IN A LAW LIBRARY HOLDING CAGE. PLAINTIFF STOOD IN THIS CAGE FOR AN APPROX. HOUR AND A HALF (1 1/2) AND DURING THIS PERIOD FETZER, DID NOT BROUGHT A MEDICAL STAFF TO LOOK AT HIM AND TREAT HIS WOUNDS AFTER PLEADING TO HIM FOR MEDICAL TREATMENT.

20. THEREAFTER, FETZER CAME OVER TO THE CAGE TO HAVE HIM ESCORTED OUT OF IT ONTO BUILDING 18, SPECIAL SEGREGATION DISCIPLINARY UNIT. PLAINTIFF REFUSED TO LEAVE AND TOLD FETZER THAT HE WAS NOT GOING ANYWHERE UNTIL HE RECEIVED MEDICAL TREATMENT AND HAD PHOTOS TAKEN OF HIS FACE AND NECK AREA. FETZER, THEN ASSURED HIM THAT AT BUILDING 18, HE WOULD TAKE HIM TO SEE THE DOCTOR ONCE THE PLAINTIFF WAS BROUGHT TO HIS ASSIGNED CELL.

21. PLAINTIFF WAS PLACED IN A CELL LOWER 4 OF C TIER AND STRIPPED NAKED AND LEFT THERE WITH NOTHING IN THE CELL. THE ONLY THING IN THE CELL THAT IT HAS WAS A METAL FRAME AND A METAL TOILET. NO MATTRESS, SHEETS, BLANKETS, TOILET PAPER, SOAP, TOOTHPASTE WAS EVER GIVEN TO HIM EVEN AFTER HIS PLEAS TO OBTAIN THEM. THE CELL CONDITIONS WERE FREEZING AND THE OFFICERS THAT

TOOK CARE OF THE HOUSING UNIT KEPT SAYING THAT IT WAS CAPTAIN BELANGER'S ORDERS. THE PLAINTIFF STOOD IN THAT CELL UNDER INHUMANIE CONDITIONS FOR FIFTEEN (15) DAYS. WHILE IN THAT CELL HE WAS PROVIDED A MATTRESS AT APPROX. 10:00/AM AND AT 5:00/AM THE MATTRESS WAS REMOVED.

22. DURING THE FIFTEEN DAYS THE PLAINTIFF WAS NOT GIVEN ANY MEDICAL ATTENTION, AND/OR THROUGHOUT PLAINTIFF'S HEALING PROCESS.

23. DEFENDANT FUENTES, AS THE CORPORAL ASSIGNED TO BUILDING 17, HELD COMPLETE CONTROL OF THE OPERATIONS AND CARE OF THE PRISONERS UNDER HIS CONTROL AND SUPERVISION.

24. DEFENDANT DID WITH MALICE AND DELIBERATE ACT DID INSTIGATE A PHYSICAL ENCOUNTER TOWARDS THE PLAINTIFF IN ORDER TO JUSTIFY HIS ACTIONS OF ASSAULTING HIM.

25. FUENTES, DID WITH A DELIBERATE ACT ATTEMPTED TO LOOSEN UP A CLIFF OF PLAINTIFF'S HAND WITH THE INTEND TO ONLY HAVE AN AVENUE OF JUSTIFICATION AFTER HIS ASSAULT AGAINST THE PLAINTIFF.

26. FUENTES, DID PUNCH PLAINTIFF SEVERAL TIMES UPON HIS FACE CAUSING BODILY INJURY.

27. FUENTES' ACTIONS WERE OBSCURATE AND WANTON, THIS, CAUSING PLAINTIFF GRIEVOUS HARM AND THE INJURIES SUSTAINED AS THE RESULT OF IT WERE MORE THAN DE MINIMIS, AND CONSTITUTED DELIBERATE INDIFFERENCE AND CRUEL AND UNUSUAL PUNISHMENT, IN VIOLATION OF THE 8TH AND 14TH AMENDMENTS TO THE UNITED

STATES CONSTITUTION, OF PLAINTIFFS CONSTITUTIONAL RIGHTS, UNDER 42 U.S.C. §1983; DISPERATE TREATMENT IN VIOLATION OF EQUAL PROTECTION OF THE LAWS AFFORDED UNDER THE 14TH AMENDMENT TO THE UNITED STATES CONSTITUTION.

28. DEFENDANT PRATTS, AS A CORRECTIONAL OFFICER, WAS IN-CHARGE OF THE CARE AND CONTROL OF PLAINTIFF WHILE ASSIGNED TO PERFORM HIS DUTIES AT BUILDING 17, ON THE DAY IN QUESTION.

29. DEFENDANT DID WITH MALICE AND DELIBERATE ACT TAKE PLAINTIFFS LEG IRON AND JERKED PULL THEM WITH THE INTENT TO MAKE THE PLAINTIFF FALL AND CAUSE HIM BODILY INJURY.

30. PRATTS, DID WITH MALICE AND DELIBERATE ACT THEREAFTER TOOK HOLD OF PLAINTIFFS HAIR AND HEAD AND SHOVED HIS FACE ONTO THE CONCRETE FLOOR CAUSING PLAINTIFFS LIP TO GET A CUT SERIOUS ENOUGH TO WARRANT SUTURES AND LOOSENING TWO TEETH'S.

31. PRATTS' ACTIONS WERE OBDURATE AND WANTON, THUS, CAUSING PLAINTIFF GRIEVOUS HARM AND THE INJURIES SUSTAINED AS THE RESULT OF IT WERE MORE THAN DE MINIMIS, AND CONSTITUTED DELIBERATE INDIFFERENCE AND CRUEL AND UNUSUAL PUNISHMENT, IN VIOLATION OF THE 8TH AND 14TH AMENDMENTS TO THE UNITED STATES CONSTITUTION, OF PLAINTIFFS CONSTITUTIONAL RIGHTS, UNDER 42 U.S.C. §1983; DISPERATE TREATMENT IN VIOLATION OF EQUAL PROTECTION OF THE LAWS AFFORDED UNDER THE 14TH AMENDMENT TO THE UNITED STATES CONSTITUTION.

32. DEFENDANT GARDELS, AS A CORRECTIONAL OFFICER, WAS IN-CHARGE OF THE CARE AND CONTROL OF PLAINTIFF WHILE ASSIGNED TO PERFORM HIS DUTIES AT BUILDING 17, ON THE DAY IN QUESTION.

33. DEFENDANT DID WITH MALICE AND DELIBERATE ACT TAKE PLAINTIFF INTO A SHOE HOLD AND JAMMED HIS FACE AND SHOULDER AREA ONTO THE CONCRETE FLOOR CAUSING THE PLAINTIFF TO PASS OUT INTO A SEMIUNCONSCIENCE STATE AND CAUSING BRUISING UPON THE NECK AREA.

34. GARDELS' ACTIONS WERE ODDURATE AND WANTON, THUS, CAUSING PLAINTIFF GRIEVOUS HARM AND THE INJURIES SUSTAINED AS THE RESULT OF IT WERE MORE THAN DE MINIMES, AND CONSTITUTED DELIBERATE INDIFFERENCE AND CRUEL AND UNUSUAL PUNISHMENT, IN VIOLATION OF THE 8TH AND 14TH AMENDMENTS TO THE UNITED STATES CONSTITUTION, OF PLAINTIFF'S CONSTITUTIONAL RIGHTS, UNDER 42 U.S.C. § 1983, DISPERATE TREATMENT IN VIOLATION OF EQUAL PROTECTION OF THE LAWS AFFORDED UNDER THE 14TH AMENDMENT TO THE UNITED STATES CONSTITUTION.

35. DEFENDANT BELANGER, AS THE CAPTAIN, INCHARGE OF THE SECURITY HOUSING UNIT, SPECIAL SEGREGATION DISCIPLINARY UNIT, HELD SUPERVISION, CONTROL OF THE OPERATIONS AND MANAGEMENT FOR SAID HOUSING UNIT.

36. DEFENDANT DID WITH THE INTENT TO DISCIPLINE PLAINTIFF INSTITUTED POLICIES AND PROCEDURES THAT CONSTITUTES INHUMANE TREATMENT AND DISPERATE TREATMENT CAUSING PLAINTIFF EMOTIONAL INJURIES.

37. BELANGER DID ORDER BY WAY OF FETZER, TO CONTAIN THE PLAINTIFF IN A "STRIP CELL" (THAT IS USED FOR THOSE OF WHOM ARE UNDER SUICIDE WATCH) BARE NAKED WITH THE INTENT TO CAUSE EMOTIONAL AND PHYSICAL HARM, AS THE CELL CONTAINS AN AIR VENT WITH FREEZING TEMPERATURES OF AIR AT HIGH RATE OF SPEED BLOWING INTO THE CELL.

38. BELANGER'S ACTIONS WERE OBDURATE AND WANTON, THUS, CAUSING PLAINTIFF GRIEVOUS HARM AND THE INJURIES SUSTAINED AS THE RESULT OF IT WERE MORE THAN DE MINIMIS, AND CONSTITUTED DELIBERATE INDIFFERENCE AND CRUEL AND UNUSUAL PUNISHMENT, IN VIOLATION OF THE 8TH AND 14TH AMENDMENTS TO THE UNITED STATES CONSTITUTION, OF PLAINTIFF'S CONSTITUTIONAL RIGHTS, UNDER 42 U.S.C. § 1983; DISPERATE TREATMENT IN VIOLATION OF EQUAL PROTECTION OF THE LAWS AFFORDED UNDER THE 14TH AMENDMENT TO THE UNITED STATES CONSTITUTION.

39. DEFENDANT FETZER, AS THE LIEUTENANT, INCHARGE OF THE SECURITY HOUSING UNIT, SPECIAL SEGREGATION DISCIPLINARY UNIT, HELD SUPERVISION AND CONTROL OF THE DAY TO DAY BASIS OPERATIONS OF SAID UNIT AND OTHER UNITS OF THE SECURITY HOUSING UNIT.

40. DEFENDANT DID WITH DELIBERATE ACT FAILED TO ADDRESS PLAINTIFF MEDICAL NEEDS IN HAVING HIM ATTENDED FOR HIS WOUNDS AND RELATED TREATMENT.

41. FETZER DID WITH MALICE AND DELIBERATE ACT DENIED THE PLAINTIFF THE TREATMENT TO PREVENT ANY ADDITIONAL WITNESSES TO THE CRIME AND TO PREVENT ANY MEDICAL REPORTS BEING FILED.

42. FETZER DID FAILED TO TAKE APPROPRIATE ACTION TO INVESTIGATE THE ASSAULT AGAINST THE PLAINTIFF AFTER BEING INFORMED AND SEEING THE ASSAULT WOUNDS AND BRUISES UPON THE PLAINTIFF AND/OR REPORTED IT.

43. FETZER DID WITH MALICE AND DELIBERATE ACT PLACED THE PLAINTIFF INSIDE A STRIP CELL BARE NAKED WITH THE INTENT TO CAUSE EMOTIONAL AND PHYSICAL INJURIES, AS THE CELL CONTAINS AN AIR VENT WITH FREEZING TEMPERATURES OF AIR AT HIGH RATE OF SPEED BLOWING INTO THE CELL.

44. FETZER'S ACTIONS WERE OBSCURATE AND WANTON, THUS, CAUSING PLAINTIFF GRIEVOUS HARM AND THE INJURIES SUSTAINED AS THE RESULT OF IT WERE MORE THAN DE MINIMIS, AND CONSTITUTED DELIBERATE INDIFFERENCE AND CRUEL AND UNUSUAL PUNISHMENT, IN VIOLATION OF THE 8TH AND 14TH AMENDMENTS TO THE UNITED STATES CONSTITUTION OF PLAINTIFF'S CONSTITUTIONAL RIGHTS, UNDER 42 U.S.C. §1983; DISPERATE TREATMENT IN VIOLATION OF EQUAL PROTECTION OF THE LAWS AFFORDED UNDER THE 14TH AMENDMENT TO THE UNITED STATES CONSTITUTION.

45. DEFENDANT MITCHELL IS A MEDICAL NURSE, OPERATING AT THE SECURITY HOUSING UNIT, MEDICAL AREA AT BUILDINGS 17 AND 18, AND WAS IN CHARGE OF THE CARE AND MEDICAL NEEDS OF PLAINTIFF WHILE PERFORMING THE DUTIES ON THE DAY TO DAY BASIS ON THE DAY IN QUESTION.

46. DEFENDANT DID FAILED TO ATTEND THE PLAINTIFF'S MEDICAL NEEDS KNOWING THAT HE WAS IN NEED OF AND EVEN AFTER SEEING THE WOUNDS AND BRUISES UPON PLAINTIFF'S FACE AND NECK AREA.

47. MITCHELL DID WITH MALICE AND DELIBERATE ACT DENIED THE PLAINTIFF ANY MEDICAL TREATMENT AS TO ASSIST THE PRISON OFFICIALS TO FURTHER CONCEAL ANY REPORTS OF ANY TYPE OF TREATMENT. EVEN AFTER PLAINTIFF'S CONTINUOUS PLEAS TO ATTEND HIM.

48. MITCHELL'S ACTIONS WERE OBSCURATE, THUS, CAUSING PLAINTIFF GRIEVOUS HARM AND THE INJURIES SUSTAINED AS THE RESULT OF IT WERE MORE THAN DE MINIMIS, AND CONSTITUTED DELIBERATE INDIFFERENCE, IN VIOLATION OF THE 14TH AMENDMENT TO THE UNITED STATES CONSTITUTION; OF PLAINTIFF'S CONSTITUTIONAL RIGHT, UNDER 42 U.S.C. §1983; DISPERATE TREATMENT IN VIOLATION OF EQUAL PROTECTION OF THE LAWS AFFORDED UNDER THE 14TH AMENDMENT TO THE UNITED STATES CONSTITUTION.

49. DEFENDANTS JOHN DOES 1-10, AS EMPLOYEES IN THEIR OFFICIAL CAPACITY, DID PERFORM IN ACCORDANCE TO THEIR STATUS AT THE DELAWARE CORRECTIONAL CENTER.

50. DEFENDANTS JOHN DOES 1-10, WERE INCHARGE OF THE OPERATIONS AND CONTROL OF THE SECURITY HOUSING UNIT, SPECIAL SEGREGATION DISCIPLINARY UNIT AND OTHER HOUSING UNITS. DEFENDANTS ARE IN-CHARGE OF THE POLICIES, PROCEDURES AND GENERAL CUSTODIAL PRACTICES FOR THE DISCIPLINARY ACTIONS BEING INTRODUCE TO PRISONERS FOR DISCIPLINARY PURPOSES. THEY ARE BEING SUED FOR THEIR DEPRIVATORY PRACTICES OF CORPORAL AND INHUMANE DISPARATE TREATMENT.

51. DEFENDANTS JOHN DOES' 1-10, ACTIONS WERE OBSCURE AND WANTON, THUS, CAUSING PLAINTIFF IRREPARABLE AND GRIEVOUS HARM AND THE INJURIES SUSTAINED AS THE RESULT OF IT WERE MORE THAN DE MINIMIS, AND CONSTITUTED DELIBERATE INDIFFERENCE AND CRUEL AND UNUSUAL PUNISHMENT, IN VIOLATION OF THE 8TH AND 14TH AMENDMENTS TO THE UNITED STATES CONSTITUTION, OF PLAINTIFFS CONSTITUTIONAL RIGHTS, UNDER 42 U.S.C. §1983; DISPERATE TREATMENT IN VIOLATION OF EQUAL PROTECTION OF THE LAWS AFFORDED UNDER THE 14TH AMENDMENT TO THE UNITED STATES CONSTITUTION.

V. RELIEF SOUGHT

PLAINTIFF FILED TWO (2) GRIEVANCES ADDRESSING THE EVENTS DECLARED HEREIN AND THE GRIEVANCE DEPARTMENT, OFFICIALS OVERSEEING THE GRIEVANCES REFUSED THE COMPLAINT UNDER TECHNICALITY AND DID NOT ADDRESS THE PROBLEM.

VI. DEMAND JURY TRIAL

VII. RELIEF

WHEREFORE, PLAINTIFF REQUESTS THAT THIS COURT GRANT THE FOLLOWING:

A. AWARD COMPENSATORY DAMAGES JOINTLY AND SEVERALLY AGAINST FUENTES, PRATTS, GARDELS, BELANGER, FETZER, MITCHELS AND JOHN DOES 1-10, FOR THE AMOUNTS TO BE DETERMINED AT TRIAL.

B. AWARD PUNITIVE DAMAGES JOINTLY AND SEVERALLY AGAINST FUENTES, PRATTS, GARDELS, BELANGER, FETZER, MITCHELS AND JOHN DOES

1-10) FOR THE AMOUNTS TO BE DETERMINED AT TRIAL.

C. GRANT SUCH OTHER RELIEF IT MAY APPEAR TO THE COURT JUST THAT THE PLAINTIFF IS ENTITLED TO.

SIGNED THIS _____ DAY OF _____, 2001.

SHANE

HOPKINS

PURSUANT TO 28 U.S.C. § 1746, I DECLARE UNDER PENALTY OF PERJURY THAT THE FORE GOING IS TRUE AND CORRECT DONE TO THE BEST OF MY KNOWLEDGE AND ABILITY.

IN AND FOR NEW CASTLE COUNTY

MELVIN PUSEY,

plaintiff,

v.

JOSEPH H. BELANGER ET AL.,
DEFENDANTS.

CIVIL ACTION

AFFIDAVIT IN
SUPPORT OF
MOTION FOR
CERTIFICATION
OF THE CLASS

No: _____

MELVIN PUSEY, BEING DULY SWORN DEPOSES AND SAYS:

1. I AM THE PLAINTIFF IN THE ABOVE ENTITLED CASE. I MAKE THIS AFFIDAVIT IN SUPPORT OF MOTION FOR CERTIFICATION OF THE CLASS.
2. PLAINTIFF ALLEGES IN THE COMPLAINT THAT HE WAS ASSAULTED AND INJURED AND DENIED MEDICAL ATTENTION. THAT HE WAS THEREAFTER TAKEN AND PLACED IN A STRIP CELL WHICH CONTAINED FECS SPLATTERED THROUGHOUT THE CELL AND OTHER SUBSTANCES VISIBLE UPON THE ENTRANCE HOLDING A STENCH IN IT.
3. THAT HE WAS STRIPPED OF HIS CLOTHES AND LEFT IN IT WITH ONLY HIS UNDERWEARS AND WITHDRAWN OF A MATTRESS, SHEETS, BLANKETS, ETC..

4. THAT THE PLAINTIFF PLEAD TO BE MOVED TO ANOTHER CELL AND THAT DESPITE OF HIS PLEAS HE WAS KEPT IN THE SAME CELL, DENIED OF HYGIENE ITEMS AND OF ALL BASIC ESSENTIALS.
5. PLAINTIFF AND SIMILAR SITUATED PRISONERS ONCE PLACED IN STRIP CELL STATUS AND ISOLATION FOR AN ALLEGED OFFENSE. THE OFFICIALS HAVE DENIED THEM OF A PRE HEARING DETENTION REVIEW WITHIN THE (72/HOURS) AS REQUIRED BY LAW AND THAT THROUGHOUT THE STAY IN STRIP CELL OR ISOLATION AND THE COMPLETION OF (15) DAYS IN SAID STATUS THEY WERE NEVER BROUGHT FOR THE CHARGES WHICH LEAD TO THEIR STATUS QUO.
6. THAT THE PLAINTIFF AND SIMILAR SITUATED PRISONERS AFTER BEING CHARGED FOR AN ALLEGED OFFENSE HAVE BEEN HELD WITHOUT A HEARING FOR IT FOR MONTHS AT A TIME BEYOND THE (7) DAYS REQUIREMENT.
7. PLAINTIFF AND SIMILAR SITUATED PRISONERS ARE DENIED COPIES OF THEIR CHARGES AND DENIED A PRELIMINARY REVIEW (90%) OF THE TIMES BY THE AREA SERGEANT AND LIEUTENANT AND TO COVER THEIR ACTIONS THEY SIMPLY WRITE ON THE FORM #121 THAT THE PRISONER REFUSED TO PARTICIPATE ON THE PROCEEDINGS.
8. THAT PLAINTIFF WHEN CALLED TO APPEAR BEFORE THE ADJUSTMENT BOARD FOR THE ALLEGED OFFENSE HE INFORMED THE H/O (AFTER BEING READ THE CHARGE) THAT HE NEVER WAS INTERVIEWED NOR BROUGHT A COPY OF THE CHARGE. THAT UPON PLAINTIFFS

REQUEST TO BE PROVIDED A COPY OF THE CHARGE AND TO POSTPONE THE HEARING FOR (24/HOURS) SO THAT HE CAN PREPARE HIMSELF FOR THE CHARGES'. THE H/O DENIED HIS REQUEST.

9. IN ADDITION, THE FORMS USED TO MAINTAIN THE RECORD DOES NOT PROVIDE AN ACCURATE RECORD OF THE INFORMATION SOUGHT IN IT AS THEY ARE [OUTDATED].

10. OFFICIALS OF DIFFERENT RANKS CARRY OUT A PROCEDURE AND METHOD THAT WHEN THEY WRITE A CHARGE ON THE FORM #122 DESIGN TO BE USED FOR THE WRITING OF A [SINGLE] OFFENSE ON IT. THE OFFICERS WRITE MULTIPLE CITATIONS OF OFFENSES ON THE FORM MANY OF WHICH ARE NOT SUPPORTED BY THE EVENTS NOTED AND WHEN THE CHARGE IS BEING ADJUDICATED - IS FOUND GUILTY OF ALL OF THE OFFENSES WRITTEN FOR WHICH INCLUDES THE NOT GUILTY ONES.

WHEREFORE, THE PLAINTIFFS MOTION FOR CERTIFICATION OF THE CLASS, SHOULD BE GRANTED.

PURSUANT TO 28 USC §1746, I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

9/17/02
DATE

MELVIN PUSEY
MELVIN PUSEY

IN AND FOR NEW CASTLE COUNTY

MELVIN PUSEY,

plaintiff,

v.

JOSEPH H. BELANGER, ET AL.,

DEFENDANTS.

CIVIL ACTION

MOTION FOR
CERTIFICATION
OF THE CLASS

No: _____

PLAINTIFF, MELVIN PUSEY, ASKS THIS HONORABLE COURT TO
CERTIFY THIS COMPLAINT AS A CLASS ACTION, FOR THE FOLLOWING
REASONS:

1. PLAINTIFF AND SIMILAR SITUATED PRISONERS ARE BEING
PLACED UNDER STRIP CELL STATUS FOR MINOR OFFENSES AND
STRIPPED OF ALL OF THEIR CLOTHING IN NUMEROUS OCCASIONS
AND IN OTHER LEAVING PRISONERS BARED NAKED UNDER INHUMANE
CONDITIONS.
2. PLAINTIFF AND SIMILAR SITUATED PRISONERS HAVE BEEN
PLACED IN STRIP CELL AND WITHDRAWN FROM ALL OF THEIR
CLOTHING THE EXCEPTION OF THE UNDERWEARS! PLACED UNDER
INHUMANE CONDITIONS DENYING HIM AND OTHERS: MATTRESS,

SHEETS, BLANKET TO SLEEP ON; DENIAL OF BASIC ESSENTIALS SUCH AS COSMETICS (IN THE (8) DAYS HELD IN SAID STATUS) AND THE CELL(S) WERE KEPT UNSANITARY WITH FECES ALL OVER THE CELL.

3. PLAINTIFF AND SIMILAR SITUATED PRISONERS HAVE BEEN DENIED COPIES OF THE DISCIPLINARY CHARGES BY THE AREA SUPERVISORS ASSIGNED TO DELIVER THE REPORT (SERGEANT OR LIEUTENANT). THE SUPERVISORS SIMPLY WRITE ON THE FORM #121 THAT THE PRISONER REFUSED TO PARTICIPATE ON THE "PRELIMINARY HEARINGS" WHICH IS THE METHOD USED TO COVER THE ACTIONS.
4. PLAINTIFF AND SIMILAR SITUATED PRISONERS ONCE PLACED UNDER [STIP CELL] AND ISOLATION FOR AN OFFENSE [ALLEGED] THEY ARE NOT PROVIDED A PRE HEARING DETENTION STATUS REVIEW WITHIN THE (72/HOUR) PERIOD, (THIS PRACTICE DOES NOT EXIST AT THE SHU). IN ADDITION, THE PLAINTIFF SERVED (15) DAYS OF [ISOLATION] AND DURING THAT PERIOD THE CHARGES WERE NOT HEARD, (BY PASSING THE (7) DAYS PERIOD FOR REVIEW).
5. PLAINTIFF AND SIMILAR SITUATED PRISONERS MONTHS LATER THEY WERE BROUGHT BEFORE THE ADJUSTMENT BOARD, FOR THE CHARGES.

9/17/02
DATE

MELVIN PUSEY
MELVIN PUSEY

MELVIN PUSEY #141523
DCC/1181 PADDOCK RD
SMYRNA, DELAWARE 19777

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

MELVIN PUSEY,

plaintiff,

v.

JOSEPH H. BELANGER ETAL.,

DEFENDANTS.

CIVIL ACTION

MOTION FOR
APPOINTMENT
OF COUNSEL

No: _____

PLAINTIFF, MELVIN PUSEY, PURSUANT TO §1915 (e)(1)
REQUESTS THAT THIS COURT APPOINT PRO BONO COUNSEL TO
REPRESENT HIM IN THIS CASE FOR THE FOLLOWING REASONS:

1. PLAINTIFF IS UNABLE TO AFFORD COUNSEL.
2. THE ISSUES INVOLVE IN THIS CASE ARE COMPLEX.
3. THE PLAINTIFF HAS NO IDEA ABOUT THE PROCEDURES AND COURT RELATED MATTERS AS HIS LIMITED KNOWLEDGE DOES NOT HELP HIM TO FULLY UNDERSTAND THE LEGALITY.

9/12/02
DATE

MELVIN PUSEY
MELVIN PUSEY

MELVIN PUSEY #141523
ECC/1181 Paddock Rd
SMYRNA DE 19977

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

MELVIN PUSEY,

plaintiff,

v.

JOSEPH H. BELANGER, ETAL.,

DEFENDANTS.

CIVIL ACTION

AFFIDAVIT IN
SUPPORT FOR
APPOINTMENT
OF PRO BONO
COUNSEL

No: _____

MELVIN PUSEY, BEING DULY SWORN DEPOSES AND SAYS:

1. I AM THE PLAINTIFF IN THE ABOVE ENTITLED CASE. I MAKE THIS AFFIDAVIT IN SUPPORT OF THE MOTION FOR APPOINTMENT OF PRO BONO COUNSEL.
2. PLAINTIFF ALLEGES IN THE COMPLAINT THAT PRISON OFFICIALS SOME OF WHICH ASSAULTED HIM AND A SUPERVISOR OF THE RANK OF LIEUTENANT STOOD BYE AND ALLOWED THE ASSAULT TO GO ON.
3. PLAINTIFF ALLEGES THAT AFTER THE USE OF EXCESSIVE FORCE BY THE LIEUTENANT AND OFFICERS ALONG WITH THE ASSAULT THE PLAINTIFF WAS DENIED MEDICAL ATTENTION FOR THE INJURIES SUSTAINED AT THE REQUEST OF PLAINTIFF.

4. PLAINTIFF ALLEGES THAT AFTER THE ASSAULT HE WAS PLACED IN A STRIP CELL WHICH HAD FECEES AND OTHER SUBSTANCES SMEARED AROUND THE CELL AND STRIPPED OF HIS CLOTHES WITH THE EXCEPTION OF THE UNDERWEAR AND DEPRIVED OF A MATTRESS SHEETS, BLANKET AND ALL THE BASIC COSMETICS FOR A PERIOD OF (8) DAYS.

5. PLAINTIFF ALLEGES THAT WHILE HE WAS BEING STRIPPED OFF HIS CLOTHES BEFORE BELANGER, McGUIGAN AND CUNNINGHAM, HE TOLD THEM ABOUT THE CELL CONDITIONS AND NONE OF THEM DID ANYTHING ABOUT IT.

6. PLAINTIFF ALLEGES THAT BELANGER MADE IT A PERSONAL VENDETTA AGAINST HIM AND RETALIATED WHEN EVER THE OPPORTUNITY PRESENTED ITSELF. AS ALLEGED IN THE COMPLAINT BELANGER CANCELED HIS VISIT AND SANCTIONED HIS LOVE ONE AND WHEN THE PLAINTIFF CONFRONTED HIM ABOUT HIS ACTIONS HE WROTE THE PLAINTIFF.

7. PLAINTIFF ALLEGES THAT OFFICERS DID NOT CONDUCT THE PRELIMINARY REVIEW AND WAS NOT GIVEN A COPY OF THE CHARGE AND THAT THE SUPERVISORS CARRYING THE DUTY TO PROCESS THEM LIE TO COVER FOR THEIR DENIAL TO CONFRONT THE PRISONERS WITH THE CHARGES.

8. PLAINTIFF ALLEGES THAT WHEN HE APPEARED BEFORE THE H/O AND THE CHARGE WAS READ. THE PLAINTIFF ADVISE THE H/O ABOUT NOT BEING INTERVIEWED AND PROVIDED A COPY OF THE CHARGE

AND WENT ON TO ARGUE HIS CASE. THE H/O BECAME SARCASTIC AND DISRUPTIVE. AS THE PLAINTIFF WENT ON TO MAKE HIS PLEA THE H/O TERMINATED THE HEARING AND HAD THE PLAINTIFF TAKEN BACK TO HIS CELL AND ADJUDICATED THE CHARGES WITHOUT HIM.

9. PLAINTIFF ALLEGES THAT THERE EXISTS A CREDIBILITY ISSUE AND THE FACT THAT THERE ARE SUPERVISORY OFFICIALS MAKING THE ISSUES MORE COMPLEX. PLAINTIFF WILL NEED THE APPOINTMENT OF COUNSEL.

10. AS SET FORTH HEREIN THESE FACTS ALONG WITH THE LEGAL MERITS ON PLAINTIFF'S CLAIMS SUPPORT THE APPOINTMENT OF PRO BONO COUNSEL TO REPRESENT HIM.

WHEREFORE, THE PLAINTIFF'S MOTION FOR APPOINTMENT OF PRO BONO COUNSEL, SHOULD BE GRANTED.

SIGNED THIS 12 DAY OF SEPTEMBER, 2002.

PURSUANT TO 28 USC § 1746, I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

MELVIN PUSEY
MELVIN PUSEY

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

MELVIN PUSEY,

plaintiff,

v.

JOSEPH H. BELANGER ET AL.,

DEFENDANTS.

CIVIL ACTION

No: _____

MEMORANDUM OF LAW IN SUPPORT OF MOTION
FOR APPOINTMENT OF PRO BONO COUNSEL

MELVIN PUSEY
PREPARED BY:

MELVIN PUSEY #KH523
DCC/1181 PADDOCK Rd
SMYRNA, DELAWARE 19977

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

MELVIN PUSEY,

plaintiff,

v.

JOSEPH H. BELANGER, ET AL.

DEFENDANTS.

CIVIL ACTION

MEMORANDUM OF LAW
FOR APPOINTMENT OF
PRO BONO COUNSEL

THIS IS A CIVIL RIGHTS ACTION CASE FILED BY A STATE PRISONER ASSERTING CLAIMS FOR THE UNCONSTITUTIONAL MISUSE OF FORCE, THE DENIAL OF DUE PROCESS IN SUBSEQUENT DISCIPLINARY PROCEEDINGS, AND THE DENIAL OF MEDICAL CARE FOR INJURIES INFLICTED DURING THE MISUSE OF FORCE. THE PLAINTIFF SEEKS DAMAGES AS TO ALL CLAIMS.

THE COMPLAINT ALLEGES THAT THE PLAINTIFF WAS ASSAULTED BY SEVERAL CORRECTIONAL OFFICERS, RECEIVING A NUMBER OF INJURIES. WHEN THE PLAINTIFF ASKED FOR MEDICAL ATTENTION THE OFFICIALS DENIED HIM ANY TREATMENT OR CARE FOR HIS INJURIES. OFFICERS DELIBERATELY CONFINED HIM INTO A CELL INHUMANE FOR HABITATION AND STRIPPED OF ALL HIS CLOTHES AND ALL BASIC

ESSENTIALS FOR THE LIVING IN SAID CELL. THE PLAINTIFF WAS CONVICTED OF TWO DISCIPLINARY CHARGES AT A HEARING. THE HEARING OFFICER DELIBERATELY REFUSED TO PROVIDE COPIES OF THE DISCIPLINARY CHARGES AND TO PROVIDE HIM A (24/HOUR) POSTPONEMENT TO PREPARE HIMSELF FOR THE CHARGES AND TO FURTHER MAKE THINGS IN HER FAVOR SHE DELIBERATELY ENGAGED IN DISRUPTIVE BEHAVIOR TO ENLITE A CONFRONTATION AND EXPULSE THE PLAINTIFF FROM THE HEARING. IN HER DECISION SHE FOUND HIM ["GUILTY AS CHARGED"] BASED ON THE REPORT WITH NO FURTHER EXPLANATION. THE DEFENDANT RENDINA DENIED THE PLAINTIFF'S DISCIPLINARY APPEAL.

THE COURT SHOULD APPOINT COUNSEL FOR THE PLAINTIFF

IN DECIDING WHETHER TO APPOINT COUNSEL FOR AN INDIGENT LITIGANT, THE COURT SHOULD CONSIDER "THE FACTUAL COMPLEXITY OF THE CASE, THE ABILITY OF THE INDIGENT TO INVESTIGATE THE FACTS, THE EXISTENCE OF CONFLICTING TESTIMONY, THE ABILITY OF THE INDIGENT TO PRESENT HIS CLAIM AND THE COMPLEXITY OF THE LEGAL ISSUES." ABDULLAH v. GUNTER, 949 F.2d 1032, 1035 (8th Cir. 1991) (CITATION OMITTED), CERT. DENIED, 112 S.Ct. 1995 (1992). IN ADDITION, COURTS HAVE SUGGESTED THAT THE MOST IMPORTANT FACTOR IS WHETHER THE CASE APPEARS TO HAVE MERIT. COOPER v. A. SARGENTI Co., Inc., 877 F.2d 170, 173 (2d Cir. 1989). EACH OF THOSE FACTORS WEIGHS IN FAVOR OF APPOINTING COUNSEL IN THIS CASE.

1. THE PLAINTIFF ALLEGES THAT SEVERAL CORRECTIONAL OFFICERS PHYSICALLY ABUSED HIM, WHILE OTHERS STOOD BY AND WATCHED. HE CHALLENGES THE INHUMANE TREATMENT OF CONFINEMENT IN THE STRIP CELL, AND ALSO THE MEDICAL CARE DENIAL AFTER THE INCIDENT. FINALLY, HE CLAIMS DENIAL OF PROCEDURAL DUE PROCESS BY A DISCIPLINARY HEARING OFFICER AND A DIRECTOR. THE SHEER NUMBER OF CLAIMS AND DEFENDANTS MAKES THIS A FACTUALLY COMPLEX CASE.

2. THE PLAINTIFF IS LOCKED UP IN PUNITIVE SEGREGATION AND HAS NO ABILITY TO INVESTIGATE THE FACTS. FOR EXAMPLE, HE IS UNABLE TO IDENTIFY, LOCATE AND INTERVIEW THE INMATES WHO WERE HOUSED IN NEARBY CELLS AND WHO SAW SOME OR ALL OF THE MISUSE OF FORCE. HE IS IN THE SAME SITUATION AS AN INMATE WHO HAS BEEN TRANSFERRED TO A DIFFERENT INSTITUTION, A FACTOR THAT SEVERAL COURTS HAVE CITED IN APPOINTING COUNSEL. TUCKER V. RANDALL, 948 F.2d 388, 391-92 (7TH CIR. 1991); GATSON V. COUGHLIN, 679 F.Supp. 270, 273 (E.D.Wis 1988); ARMSTRONG V. SNYDER, 103 F.R.D. 96, 105 (E.D.Wis 1984). IN ADDITION, THIS CASE WILL REQUIRE CONSIDERABLE DISCOVERY CONCERNING THE IDENTITY OF WITNESSES, THE OFFICERS' REPORTS AND STATEMENTS ABOUT THE INCIDENT, THE HISTORY OF THE OFFICERS WITH PRIOR RECORDS OF MISUSE OF FORCE AND THE PLAINTIFF'S MEDICAL-- SEE, TUCKER V. DICKEY, 613 F. Supp. 1124, 1133-34 (W.D.Wis 1985) (NEED FOR DISCOVERY SUPPORTED APPOINTMENT OF COUNSEL).

3. THE PLAINTIFF'S ACCOUNT OF HIS BEATING BY OFFICERS IS SQUARELY IN CONFLICT WITH THE STATEMENTS OF THE OFFICERS. THIS ASPECT OF THE CASE WILL BE A CREDIBILITY CONTEST BETWEEN THE DEFENDANTS AND THE PLAINTIFF (AND SUCH PRISONER WITNESSES AS CAN BE LOCATED). THE EXISTENCE OF THESE CREDIBILITY ISSUES SUPPORTS THE APPOINTMENT OF COUNSEL. GATSON V. LOUGHLIN, 679 F.SUPP. 270, 273 (W.D.N.Y. 1988).

4. THE PLAINTIFF IS AN INDIGENT PRISONER WITH NO LEGAL TRAINING, A FACTOR THAT SUPPORTS THE APPOINTMENT OF COUNSEL. WHISENANT V. YUAM, 739 F.2d 160, 163 (4TH CIR. 1984). IN ADDITION, HE IS CONFINED TO SEGREGATION. RAYES V. JOHNSON, 969 F.2d 700, 703-04 (8TH CIR. 1992) (CITING LACK OF READY ACCESS TO A LAW LIBRARY AS A FACTOR SUPPORTING APPOINTMENT OF COUNSEL).

5. THE LARGE NUMBER OF DEFENDANTS, SOME OF WHOM ARE SUPERVISORY OFFICIALS, PRESENTS COMPLEX LEGAL ISSUES OF DETERMINING WHICH DEFENDANTS WERE SUFFICIENTLY PERSONALLY INVOLVED IN THE CONSTITUTIONAL VIOLATIONS TO BE HELD LIABLE. IN ADDITION, THE PLAINTIFF ASKS FOR A JURY TRIAL WHICH REQUIRES MUCH LEGAL SKILLS THAN THE PLAINTIFF HAS OR CAN DEVELOP. SEE, ABDULLAH V. GUNTER, 949 F.2d 1032, 1036 (8TH CIR. 1991) (CITING JURY DEMAND AS A FACTOR SUPPORTING APPOINTMENT OF COUNSEL) CERT. DENIED, 112 S.Ct. 1995 (1992).

6. THE PLAINTIFFS ALLEGATIONS, IF PROVED, CLEARLY WOULD ESTABLISH A CONSTITUTIONAL VIOLATION. THE UNPROVOKED AND INJURIOUS BEATING ALLEGED IN THE COMPLAINT CLEARLY STATES SUPPORTING FACTS ALONG WITH THE INHUMANE TREATMENT OF CONFINEMENT TO THE STRIP CELL CONTAINING FECEES ETC, AND THE WITHDRAWAL OF ALL OF THE BASICS ESSENTIAL ALL CLEARLY STATES AN EIGHT AMENDMENT VIOLATION. SEE, HUDSON V. McMillan, ___ US ___, 112 S.Ct. 995, 1000 (1992). THE ALLEGATIONS OF DENIAL OF MEDICAL CARE AFTER THE BEATINGS AS WELL CONSTITUTE CRUEL AND UNUSUAL PUNISHMENT IN VIOLATION OF THE EIGHT AMENDMENT. THE UNJUSTIFIED DENIAL OF A COPY OF THE CHARGE AND THE POSTPONEMENT AND CONVICTION OF THE DISCIPLINARY OFFENSE AND THE FAILURE TO GIVE A MEANINGFUL STATEMENT OF REASONS FOR THE DECISION ARE ALL PLAIN VIOLATIONS, INCLUDING THE REVIEW OF THE DISCIPLINARY OFFENSE IN APPEAL ARE ALL IN VIOLATIONS OF DUE PROCESS. PONTE V. REAL, 471 US 491, 497, 105 S.Ct. 2192 (1985); SUPERINTENDENT V. HILL, 472 US 445, 457, 105 S.Ct. 2768 (1985); DYSON V. KOCIK, 689 F.2d 466, 467-68 (3rd Cir. 1982). ON ITS FACE, THEN, THIS IS A MERITORIOUS CASE.

CONCLUSION

FOR ALL OF THE FOREGOING REASONS, THE COURT SHOULD GRANT THE PLAINTIFFS MOTION AND APPOINT PRO BONO COUNSEL IN THIS CASE.

9/17/02
DATE

MELVIN PUSEY
MELVIN PUSEY

MELVIN PUSEY #141523
DCC/1181 PADDOCK Rd.
SMYRNA, DELAWARE 19977

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

MELVIN PUSEY,

plaintiff,

v.

JOSEPH H. BELANGER, ET AL.,

DEFENDANTS.

CIVIL ACTION

CERTIFICATION
OF SERVICE

No. _____

I, MELVIN PUSEY, HEREBY STATES THAT A COPY OF EACH OF THE FOLLOWING DOCUMENTS TO: SUPERIOR COURT/CLERK, 1020 N. KING ST., WILMINGTON, DE 19811; OF COMPLAINT w/ PRAECIPE AND SUMMONS; IFP APPLICATION w/ STATEMENT ACCOUNT; MOTION, AFFIDAVIT AND MEMORANDUM OF LAW FOR APPOINTMENT OF COUNSEL; MOTION AND AFFIDAVIT FOR CERTIFICATION OF THE CLASS; BY WAY OF MAIL FIRST CLASS.

PURSUANT TO 28 USC §1746, I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

9/12/02
DATE

MELVIN PUSEY
MELVIN PUSEY

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

MELVIN PUSEY,

plaintiff,

v.

JOSEPH H. BELANGER, CAPTAIN,
GLORIA J. GREEN, CAPTAIN,
ANTHONY J. REPINA, DIRECTOR OF
SPECIAL PROGRAMS B.O.P.,
LT DUAN, LIEUTENANT,
JAMES GARDELS, CORRECTIONAL OFFICER
JOHN DOES 1-10,

DEFENDANTS.

CIVIL ACTION

COMPLAINT

COMPLAINT / JURY TRIAL DEMANDED

MELVIN PUSEY #141523
DCC/1181 PADDOCK RD
SMYRNA, DELAWARE 19977

IN PROPRIA PERSONAM

I.

JURISDICTION

1. THIS IS A CIVIL RIGHTS ACTION ALLEGING CRUEL AND UNUSUAL PUNISHMENT, EQUAL PROTECTION AND DUE PROCESS, IN VIOLATION OF THE EIGHT AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION.

2. PURSUANT TO RULE 3 (a) THIS COURT HAS SUBJECT MATTER JURISDICTION OF PLAINTIFFS CLAIMS FOR RELIEF AND VIOLATIONS OF HIS RIGHTS, PRIVILEGES OR IMMUNITIES SECURED BY THE UNITED STATES CONSTITUTION AND LAWS UNDER THE EIGHT AND FOURTEENTH AMENDMENTS AND TO BE AFFORDED EQUAL PROTECTION OF THE LAWS.

II.

PLACE OF CONFINEMENT

DELAWARE CORRECTIONAL CENTER, SMYRNA, DELAWARE

III.

THE PARTIES

A. PLAINTIFF: MELVIN PUSEY #141523
1181 PADDOCK RD
SMYRNA, DELAWARE 19977

B. DEFENDANTS:

1. DEFENDANT JOSEPH H. BELANGER, ("BELANGER") AT ALL RELEVANT TIMES WAS EMPLOYED AS THE CAPTAIN, OF THE SECURITY HOUSING UNIT ("SHU") AT THE DELAWARE CORRECTIONAL CENTER.

UPON INFORMATION AND BELIEF, BELANGER, MAINTAINS HIS PRINCIPLE PLACE OF DUTY AT SAID FACILITY. BELANGER'S CONDUCT TOWARDS PLAINTIFF WHILE ACTING UNDER COLOR OF STATE LAW WAS CHARACTERIZED AS CRUEL AND UNUSUAL PUNISHMENT AND IN A RETALIATORY NATURE WHICH DEPRIVED PLAINTIFF OF HIS RIGHTS SECURED TO HIM BY THE EIGHT AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION.

2. DEFENDANT GLORIA J. GREEN, ("GREEN") AT ALL RELEVANT TIMES WAS EMPLOYED AS THE CAPTAIN/HEARING OFFICER, AT THE DELAWARE CORRECTIONAL CENTER. UPON INFORMATION AND BELIEF, GREEN, MAINTAINS HER PRINCIPLE PLACE OF DUTY AT SAID FACILITY. GREEN'S CONDUCT TOWARDS PLAINTIFF WHILE ACTING UNDER COLOR OF STATE LAW WAS CHARACTERIZED IN THE DENIAL OF PLAINTIFF'S PROCEDURAL DUE PROCESS RIGHTS SECURED TO HIM BY THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

3. DEFENDANT DUAN, ("DUAN") AT ALL RELEVANT TIMES WAS EMPLOYED AS THE LIEUTENANT, AT THE MAXIMUM HOUSING UNIT ("MHU") AT THE DELAWARE CORRECTIONAL CENTER. UPON INFORMATION AND BELIEF DUAN, MAINTAINS HIS PRINCIPLE PLACE OF DUTY AT SAID FACILITY. DUAN'S CONDUCT TOWARDS PLAINTIFF WHILE ACTING UNDER COLOR OF STATE LAW WAS CHARACTERIZED AS FAILURE TO ACT, AND STOP THOSE UNDER HIS CONTROL AND SUPERVISION FROM THE ASSAULT AND FOR EXCESSIVE USE OF FORCE, WHICH DEPRIVED THE PLAINTIFF OF HIS RIGHTS SECURED TO HIM BY THE EIGHT AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION.

4. DEFENDANT JAMES GARDELS, ("GARDELS") AT ALL RELEVANT TIMES WAS EMPLOYED AS A CORRECTIONAL OFFICER, AT THE MAXIMUM HOUSING UNIT, AT THE DELAWARE CORRECTIONAL CENTER. UPON INFORMATION AND BELIEF, GARDELS MAINTAINS HIS PRINCIPLE PLACE OF DUTY AT SAID FACILITY. GARDELS' CONDUCT TOWARDS PLAINTIFF WHILE ACTING UNDER COLOR OF STATE LAW WAS CHARACTERIZED AS EXCESSIVE USE OF FORCE AND ASSAULT WHICH DEPRIVED HIM OF HIS RIGHTS SECURED TO HIM BY THE EIGHT AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION.

5. DEFENDANT JOHN DOE 1, ("DOE 1") AT ALL RELEVANT TIMES WAS EMPLOYED AS A CORRECTIONAL OFFICER, AT THE MAXIMUM HOUSING UNIT, AT THE DELAWARE CORRECTIONAL CENTER. UPON INFORMATION AND BELIEF, DOE 1, MAINTAINS HIS PRINCIPLE PLACE OF DUTY AT SAID FACILITY. DOE'S 1, CONDUCT TOWARDS PLAINTIFF WHILE ACTING UNDER COLOR OF STATE LAW WAS CHARACTERIZED AS EXCESSIVE USE OF FORCE AND ASSAULT WHICH DEPRIVED HIM OF HIS RIGHTS SECURED TO HIM BY THE EIGHT AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION.

6. DEFENDANTS JOHN DOES 2 THRU 10, AT ALL RELEVANT TIMES WERE EMPLOYED AS CORRECTIONAL OFFICIALS, AT THE DELAWARE CORRECTIONAL CENTER, WHOS EXACT IDENTITIES AND ROLES ARE SUBJECT TO FURTHER INVESTIGATION AND DISCOVERY. PLAINTIFF RESERVES THE RIGHT TO IDENTIFY JOHN DOES 2 THRU 10, AND THEIR ROLES AT TRIAL. DEFENDANTS' JOHN DOES CONDUCT TOWARDS PLAINTIFF WHILE ACTING UNDER COLOR STATE LAW WAS CHARACTERIZED

WITH DISREGARDS TO PLAINTIFFS HEALTH AND SAFETY, DEPRIVING HIM OF HIS RIGHTS SECURED TO HIM BY THE EIGHT AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION.

7. DEFENDANT ANTHONY J. REDINA, AT ALL RELEVANT TIMES WAS EMPLOYED AS THE DIRECTOR SPECIAL PROGRAMS, FOR THE DEPARTMENT OF CORRECTIONS, BUREAU OF PRISONS. UPON INFORMATION AND BELIEF THE DIRECTOR OF SPECIAL PROGRAMS, REDINA'S CONDUCT TOWARDS PLAINTIFF WAS CHARACTERIZED AS A DENIAL AND DEPRIVATION OF DUE PROCESS OF LAW SECURED BY THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

IV.

STATEMENT OF CLAIM

POINT 1

EXCESSIVE USE OF FORCE AND INHUMAN CONDITIONS OF CONFINEMENTS IN VIOLATION OF THE CONSTITUTIONAL RIGHTS UNDER THE EIGHT AND FOURTEENTH AMENDMENTS TO BE FREE FROM CRUEL AND UNUSUAL PUNISHMENT

AGAINST DEFENDANTS BELANGER, DUAN, GARDELS, JOHN DOE 1,

AND JOHN DOES 2-10.

8. ON, OCTOBER 16, 2001, WHILE HOUSING AT THE MAXIMUM HOUSING UNIT (MHU)^{1*} AT APPROX. 2:00PM THE COMMISSARY WAS BEING DELIVERED AT THE UNIT. THE PRISONERS WERE BEING LET OUT OF THEIR CELLS TO PICK UP THEIR ORDERS.

* - SEE FOOTNOTE ON PAGE 5

9. PLAINTIFF'S CELL WAS OPENED AND WHEN HE WENT OVER TO CORRECTIONS' OFFICER ("C/O") HOLLCOMB TO PICK UP HIS PURCHASED ORDER. THE C/O INFORMED HIM THAT HE WAS STILL IN SANCTION STATUS.

* (GO TO NEXT PAGE 6, FOR ADDITIONAL REPORT)

1- MHU IS A TRANSITION HOUSING UNIT WHICH CARRIES TWO LEVELS OF QUALITY OF LIFE (LEVELS 4 AND 5). IN ORDER FOR A PRISONER TO ADVANCE ON THE LEVELS HE MUST COMPLETE A TREATMENT PLAN WORK PACKAGE PROVIDED BY THE HOUSING UNIT COUNSELOR. REVIEW CYCLES VARIES FROM 60 TO 90 DAYS PERIOD.

10. PLAINTIFF ADVISED THE C/O THAT HE HAD COMPLETED HIS (20) DAYS OF SANCTION THAT IF HE LOOKED AT THE SANCTION SHEET HE WOULD SEE THAT THE PLAINTIFF WAS OFF SANCTION. AFTER THE PLAINTIFF NOTICED THAT HE WAS NOT GETTING ANY WHERE HE WENT OVER TO SPEAK TO UNIT OFFICER.

11. PLAINTIFF APPROACH C/O GARDELS AND EXPLAINED TO HIM THE ISSUE AT HAND AS HE DID C/O HOLLOCOMB. GARDELS REFUSED TO ASSIST THE PLAINTIFF ON THE MATTER AND ASKED HIM TO LOCK IN. THE PLAINTIFF THEN ASKED TO SEE A LIEUTENANT ("LT") AND REFUSED TO LOCK IN.

12. LT DUANI CAME OVER TO THE UNIT TO SPEAK WITH THE PLAINTIFF. AT WHICH TIME THE PLAINTIFF EXPLAINED THE LT THE SITUATION AS MENTIONED ABOVE AND ASKED THE LT TO CHECK ON THE SANCTION SHEET FOR CORROBORATION.

13. THE LT IN RESPONSE SAID THAT HE DID NOT HAVE TO CHECK THAT HE WAS TOLD THAT HE WAS ON SANCTION, THEREBY HE WAS STILL ON SANCTION. TO LOCK IN HIS CELL.

14. PLAINTIFF REFUTED ALL OF THEIR ACTIONS AND CALLED THEM NAMES AND BEGIN TO WALK TOWARDS HIS CELL WITH THE LT, GARDELS, HOLCOMB AND FETIZ, ESCORTING HIM TO THE CELL. UPON REACHING THE CELL THE PLAINTIFF TURNED AROUND TO ASK THE LT A QUESTION. THE LT THEN SHOUTED: "LOCK IN I AM NOT

TELLING YOU AGAIN."

15. THE PLAINTIFF THEN TURNED AROUND TO ENTER THE CELL AT WHICH TIME HE WAS ROUGHLY PUSHED INSIDE THE CELL BY THE LT. AS THE PLAINTIFF FELL FORWARD INTO THE CELL OTHER OFFICERS ATTEMPTED TO SHUT THE DOOR AND DURING THE CLOSING OF THE DOOR THE PLAINTIFF'S LEFT LEG GOT CAUGHT ON THE DOOR. THE PLAINTIFF REACTED BY REACHING FOR THE DOOR AND AS HE GRABBED THE DOOR TO GET HIS FOOT OFF FROM THE FRAME AND DOOR TRAPPING.

16. AS THE PLAINTIFF STRUGGLED TO PULL HIS FOOT OFF THE DOOR. THE LT SPRAY MAZED THE PLAINTIFF AND GARDELS ALONG WITH THE OTHER DEFENDANTS RUSHED THE PLAINTIFF INTO THE CELL. AS THE DEFENDANTS RUSHED HIM THEY TRIPPED THE PLAINTIFF AND HE FELL ONTO THE FLOOR. WHILE ON THE FLOOR THE OFFICERS TURNED THE PLAINTIFF ONTO HIS STOMACH WITH GARDELS OVER HIS HEAD BY THE RIGHT SHOULDER AREA. GARDELS TOOK PLAINTIFF'S HEAD AND SLAMMED IT ONTO THE FLOOR SEVERAL TIMES CAUSING INJURIES TO THE MOUTH AND CHEEK-BONE TO THE EXTEND OF NEEDING MEDICAL ATTENTION.

17. DURING GARDELS ACTIONS AS HE HELD PLAINTIFF'S HEAD AGAINST THE FLOOR CONCRETE ANOTHER OFFICER KICKED THE PLAINTIFF AT HIS RIGHT RIBS AREA SEVERAL TIMES KNOCKING HIS BREATH OUT OF HIM. UPON THE COMPLETION OF THE BEATING THE OFFICERS SHOUTED FOR THE PLAINTIFF TO REMAIN ON THE FLOOR FACE DOWN AS THEY ALL WALKED OUT OF THE CELL.

18. SHORTLY THEREAFTER SGT POWELL, CAME OVER TO PLAINTIFF'S CELL AND HANDCLIPPED HIM. THE SGT THEN ESCORTED HIM TO DEPUTY WARDEN, LAWRENCE A. MCGUIGAN, MAJOR, CHARLES CUNNINGHAM AND CAPTAIN, JOSEPH H. BELANGER.

19. AS THE PLAINTIFF WAS BEING ESCORTED HE TOLD THE SGT THAT HE NEEDED TO SEE THE NURSE. THAT HE BELIEVED THAT HE HAD BROKEN RIBS AND NEEDED TO HAVE HIS MOUTH AND FACE (CHEEK BONE) TREATED FOR THE INJURIES. IN RESPONSE THE SGT SAID TO LET THEM KNOW.

20. CAPTAIN BELANGER AND OTHERS MENTIONED ABOVE TOOK HOLD OF HIM AND HAD THE PLAINTIFF ESCORTED TO THE SHU SEGREGATION BEHAVIORAL UNIT ("SBU") AT BUILDING 18.

21. THE PLAINTIFF AT WHICH TIME ASKED BELANGER TO TAKE HIM TO SEE THE NURSE AND DISPLAYED HIS FACIAL INJURIES. THE PLAINTIFF WENT ON TO INFORM THE OFFICERS WHAT TOOK PLACE.

22. BELANGER IN RESPONSE TOLD THE PLAINTIFF: "LATER".

23. THE PLAINTIFF WAS TAKEN TO UNIT C AND CELL 1 ON THE LOWER AREA. IN A CELL THAT WAS (IS) A STRIP CELL. HE WAS PLACED INSIDE THE CELL AND ASKED TO STRIP HIS CLOTHES OFF. AS THE PLAINTIFF REMOVED HIS CLOTHES HE TOLD BELANGER TO PUT HIM IN ANOTHER CELL THAT THE CELL HAVE FEELS ON THE DOOR'S WINDOW AND ABOUT THE CELL AND THAT THE CELL HELD A STENCH THAT WAS UNBARABLE.

24. AT ONE POINT THE PLAINTIFF STOPPED THE PROCESS OF REMOVING HIS CLOTHES AND ONCE AGAIN ASKED TO BE MOVED TO ANOTHER CELL.

25. BELANGER IN RESPONSE THREATENED THE PLAINTIFF BY COMING INTO THE CELL AND REMOVE THE CLOTHES OFF FROM HIM. THE PLAINTIFF GAVE HIM ALL OF THE CLOTHES AND BELANGER RETURNED BACK HIS UNDERWEAR.

26. THE PLAINTIFF THEN TOLD HIM IN FRONT OF MCGUIGAN AND CUNNINGHAM, AS THE CELL DOOR WAS ABOUT TO SHUT IF THEY WERE GOING TO TAKE HIM TO THE NURSE. NEITHER ONE PAID ANY ATTENTION AND WALKED OFF THE UNIT.

27. DURING THE DAY THE PLAINTIFF CONFRONTED SEVERAL OFFICERS AND ASKED THEM TO TAKE HIM TO SEE THE NURSE AND HAVE HIM MOVED OUT OF THE CELL AND NOTHING WAS DONE.

28. IN THE DAYS TO COME THE PLAINTIFF ASKED THE OFFICERS FROM DIFFERENT SHIFTS (8 TO 4 AND 4 TO 12) FOR MEDICAL ATTENTION AND TO BE MOVED INTO ANOTHER CELL. IN ADDITION, HE ASKED FOR CLOTHING, TO BE GIVEN A MATTRESS TO SLEEP ON, SHEETS, BLANKET, TOILET PAPER, SOAP, TOOTHPASTE, TOOTHBRUSH AND IT WENT ON WITHOUT NOTICE IN THE EIGHT DAYS THAT HE WAS KEPT IN THAT STRIPPED CELL.

29. WHEN LT MICHAEL WELCOME, CAME TO THE UNIT THE PLAINTIFF INFORMED HIM OF HIS SITUATION MENTIONED ABOVE AND IN RESPONSE HE SAID THAT IT WAS BELANGER WHO HAD ORDERED HIS STATUS QUO

AND THAT HE COULD NOT DO ANYTHING.

30. DURING THE DAYS IN THE STRIP CELL THE PLAINTIFF ASKED THE TIEMAN² TO GET HIM THE CLEANING SUPPLIES. IN RESPONSE HE SAID THAT THE OFFICERS INSTRUCTED HIM NOT TO PASS ANYTHING TO HIM. THAT IF CAUGHT PASSING ANYTHING TO HIM THE TIEMAN WILL BE FIRED.

31. THE PLAINTIFF WAS PLACED AND KEPT IN A CELL FOR A PERIOD OF EIGHT (8) DAYS UNDER STRIP CELL STATUS WITHOUT ALL OF THE ABOVE MENTIONED ITEMS AND CONDITIONS. IN ADDITION, HE WAS DENIED TOILET PAPER TO KEEP HIM FROM USING IT TO COVER THE VENT WHICH RELEASED EXTREMELY COLD AIR AT VERY HIGH SPEED DESIGNED AS A PUNITIVE MEASURE. THE PLAINTIFF HAD TO JOG TO STAY WARM.

32. ON OR ABOUT, OCTOBER 24, 2001, EIGHT DAYS LATER THE PLAINTIFF WAS MOVED TO ANOTHER CELL (ISOLATION CELL). ONLY AFTER THE CELL WAS NEEDED TO PUT ANOTHER PRISONER UNDER THE SAME INHUMANE CONDITIONS.

33. LATER ON THE SAME DAY THE PLAINTIFF WAS GIVEN A JUMPER SUIT AND AT 10:00/PM A MATTRESS, SHEETS AND A BLANKET WAS BROUGHT TO HIS CELL. NO SOCKS OR FOOTWEAR WAS EVER PROVIDED AND AS THE RESULT THEREOF, THE PLAINTIFF WAS UNABLE TO PARTICIPATE WITH

2- THE TIEMAN IS AN INMATE THAT IS GIVEN THE JOB TO CLEAN THE UNIT

RECREATION AND HAD TO SHOWER BAREFOOTED.³

34. ON OR ABOUT, NOVEMBER 13, 2001, APPROX. (20) DAYS LATER THE PLAINTIFF WAS TRANSFERRED OUT OF SBU AND PLACED IN ANOTHER BUILDING OF THE SHU UNDER SEGREGATION STATUS.

35. WHILE HOUSING IN SAID BUILDING 19, IN UNIT D, THE COUNSELOR TODD KRAMER, ADVISED THE PLAINTIFF THAT HE WAS BEING DOWNGRADED FROM HIS 'QUALITY OF LIFE LEVEL', FROM LEVEL 5 TO LEVEL 1.⁴

36. BASED ON THE FOREGOING, AT ALL RELEVANT TIMES DUAN, GARDELS AND DOE 1, WHILE ACTING UNDER COLOR OF STATE LAW ENGAGED IN CONDUCT CONSTITUTING DELIBERATE INDIFFERENCE TO THE RISK OF HARM TO PLAINTIFF'S LIFE AND SAFETY THROUGH THE USE OF EXCESSIVE FORCE AND THE ASSAULT SUFFICIENT TO DEPRIVE PLAINTIFF OF THE RIGHTS SECURED BY THE EIGHT AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION.

37. BASED ON THE FOREGOING, AT ALL RELEVANT TIMES BELANGER AND DOES 2-10, WHILE ACTING UNDER COLOR OF STATE LAW ENGAGED IN CONDUCT CONSTITUTING DELIBERATE INDIFFERENCE TO THE RISK

3- THE RECREATION AND SHOWER ACTIVITIES WERE NOT IN EFFECT DURING THE EIGHT DAYS OF STRIP CELL STATUS

4- EACH HOUSING UNIT (MHU) AND (SHU) CONTAIN QUALITY OF LIFE LEVELS OF STATUS. SHU HAS LEVELS 1-3 AND MHU HAS LEVELS 4 AND 5. THE HIGHER THE LEVEL THE BETTER IS THE QUALITY OF LIFE.

OF HARM TO PLAINTIFF'S HEALTH AND SAFETY THROUGH THE DENIAL OF A CLEAN AND HUMANE SHELTER AND THE DENIAL OF MEDICAL ATTENTION ALONG WITH THE WITHDRAWAL OF ALL OF PLAINTIFF'S CLOTHING AND BASIC NECESSITIES WHICH INCLUDES THE MATTRESS AND OTHER ESSENTIAL ITEMS, SUFFICIENT TO DEPRIVE PLAINTIFF OF THE RIGHTS SECURED BY THE EIGHT AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION.

38. AS A PROXIMATE RESULT OF THE DEFENDANTS' VIOLATIONS PLAINTIFF MELVIN PUSEY, HAS SUFFERED PAINFUL BODILY INJURIES.

39. DEFENDANTS BELANGER, DUAN, GARDELS, DOE 1 AND DOES 2-10, ARE JOINTLY AND SEVERALLY LIABLE TO PLAINTIFF FOR DAMAGES TO THE EXTENT ALLOWED BY THE LAW.

POINT 2

RETALIATORY ACTIONS

AGAINST DEFENDANT BELANGER

40. ON, JANUARY 30, 2002, AT APPROX 10:20/AM THE PLAINTIFF WAS HAVING A [WINDOW VISIT]^{5*} WITH MS MARIE JAMES ("MS JAMES") AT BUILDING 20.

41. DURING THE VISIT MS JAMES, BRIEFLY STOOD UP OFF HER SEAT TO PULL OUT OF HER'S FRONT POCKET THE ASTHMA INHALER.

* - SEE FOOTNOTE ON PAGE 13

42. SHORTLY THEREAFTER (BELANGER WAS IN HIS OFFICE FAR AWAY FROM ANY VISUAL CONTACT OF THE VISIT AREA) BELANGER CAME OVER TO THE VISIT AREA WITH LT FETZER, TO CANCEL HIS VISIT.

43. THE PLAINTIFF CONFRONTING BOTH OFFICERS ASKED BELANGER FOR WHAT REASON WAS THE VISIT CANCELED.

44. BELANGER IN A SARCASTIC MANNER SAID THAT PLAINTIFF'S VISIT WAS CANCELED BECAUSE HIS VISITOR WAS PREVIOUSLY WARNED NOT TO GET UP FROM HER SEAT (CLAIMING THAT SHE WAS PREVIOUSLY WARNED ON HER LAST VISIT). WHICH BARES ANY TRUTH TO IT SINCE THE PLAINTIFF'S VISITOR HAD NOT VISIT HIM BEFORE.

45. THE PLAINTIFF BEING UPSET REFUTED BELANGER'S ACTIONS AND TOLD HIM THAT IT WAS PERSONAL TO HAVE ANOTHER OFFICER INSTRUCTED TO WATCH HIM.

46. BELANGER AND LT FETZER ESCORTED HIM TO THE STRIP ROOM AND HAD PLAINTIFF'S CUFFS REMOVED FROM THE SIDE WAIST CHAIN AND RECLIPPED HIM ONTO THE BACK. PLAINTIFF COMPLAINED THAT THE CUFFS WERE PLACED TO TIGHTEN TO LOOSE THEM UP. BOTH IGNORED HIS PLEA AND RUSHED HIM BACK TO HIS HOUSING UNIT.

5- THE WINDOW VISITS ARE CONSTRUCTED AS BOOTHS' PARALEGAL TO ONE ANOTHER WITH A BOX LIKE STYLE WITH VISUAL AREAS BY WAY OF A LARGE GLASS BETWEEN THE VISITOR AND PRISONERS.

47. ON OR ABOUT, FEBRUARY 04, 2002, MS JAMES CALLED THE PRISON VISIT REGISTRATION AREA TO SCHEDULE A VISIT FOR FEBRUARY 06, 2002. DURING THE REGISTRATION OF THE VISIT SHE WAS ADVISED THAT SHE HAD BEEN SCHEDULED.

48. ON, FEBRUARY 06, 2002, MS JAMES CAME OVER TO THE PRISON REGISTRATION AREA TO HAVE THE PLAINTIFF CALLED OUT FOR THE WINDOW VISIT. AFTER HAVING SPENT AN HOUR FOR THE VISIT SHE WAS LATER INFORMED THAT SHE WAS NOT ALLOWED TO VISIT THE PLAINTIFF. SHE WAS THEREAFTER FURTHER ADVISED THAT HER VISITS HAD BEEN SUSPENDED FOR A (90) DAYS PERIOD.

49. LATER ON THIS SAME DAY THE OFFICIALS INFORMED THE PLAINTIFF THAT HIS VISIT HAD BEEN SUSPENDED. THE PLAINTIFF THEN GRIEVED THE CANCELLATION OF THE VISITS AND FOR THEIR FAILURE TO ADVISE MS JAMES THAT HER VISITS HAD BEEN SUSPENDED.

50. THE GRIEVANCE DEPARTMENT LOGGED PLAINTIFF'S GRIEVANCE ON, FEBRUARY 11, 2002 AND IN THEIR RESPONSE THE OFFICIAL SAID: "[A LETTER WAS SENT]. ONCE THE MAIL LEAVES DCC ITS NO LONGER A DCC ISSUE, ITS A POST OFFICE ISSUE."

51. THE FACT OF THE MATTER THAT BELANGER IN RETALIATION DID INFACIT INSTRUCTED HIS OFFICERS TO TAKE SUCH AN ACTION TO HAVE PLAINTIFF'S VISIT CANCELED THAN SUSPENDED. AND TO COVER THEIR ACTIONS THEY SENT A LETTER AFTER THE FACT AS SHOWNED ON THE LETTER STAMPED DATE.

52. BASED ON THE FOREGOING, AT ALL RELEVANT TIMES BELANGER WHILE ACTING UNDER COLOR OF STATE LAW ENGAGED IN CONDUCT CONSTITUTING RETALIATORY ACTIONS WITH THE INTENT TO CAUSE EMOTIONAL HARM, SUFFICIENT TO DEPRIVE THE PLAINTIFF OF THE RIGHTS SECURED BY THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

53. AS A PROXIMATE RESULT OF THE DEFENDANT'S VIOLATIONS THE PLAINTIFF, MELVIN RUSEY HAS SUFFERED EMOTIONAL INJURIES.

54. DEFENDANT, BELANGER, IS JOINTLY AND SEVERALLY LIABLE TO PLAINTIFF FOR DAMAGES WITH COSTS AND ATTORNEYS FEES AND FOR PUNITIVE DAMAGES TO THE EXTENT ALLOWED BY THE LAW.

POINT 3
DENIAL OF PROCEDURAL DUE PROCESS
AGAINST DEFENDANT GREEN

55. ON OCTOBER 16, 2001, THE PLAINTIFF WAS CHARGED WITH TWO DISCIPLINARY OFFENSES (DISORDERLY OR THREATENING BEHAVIOR AND FAILURE TO OBEY AN ORDER) AND PLACED UNDER STRIP CELL STATUS [PRE HEARING DETENTION].

56. THE PLAINTIFF WAS NOT GIVEN THE [PRELIMINARY] INTERVIEW AND WAS NOT BROUGHT A COPY OF THE CHARGE.

57. THE PLAINTIFF COMPLETED EIGHT DAYS UNDER STRIP CELL STATUS AND A TOTAL OF (20) DAYS OF ISOLATION WITHOUT ANY TYPE OF HEARING BY THE ADJUSTMENT BOARD. THE PLAINTIFF WAS

TRANSFERRED OUT OF ISOLATION THEREAFTER TO A SEGREGATION UNIT.

58. ON JANUARY 30, 2002, THE PLAINTIFF WAS WRITTEN ANOTHER DISCIPLINARY OFFENSES (DISORDERLY OR THREATENING BEHAVIOR AND FAILURE TO OBEY AN ORDER).

59. THE PLAINTIFF WAS NEITHER GIVEN A [PRELIMINARY HEARING] INTERVIEW OR BROUGHT A COPY OF THE CHARGE.

60. ON MARCH 21, 2002, THE ADJUSTMENT BOARD CONVENED TO HEAR THE CHARGES FOR OCTOBER 16, 2001, AND JANUARY 30, 2002.

61. THE HEARING OFFICER ("H/O") CAPTAIN, GLORIA J. GREEN, WAS THE PRESIDING OFFICER OVER THE HEARINGS.

62. THE H/O BEGIN THE HEARING BY READING THE CHARGE AND THEREAFTER ASKED THE PLAINTIFF FOR HIS STATEMENT. THE PLAINTIFF INFORMED THE H/O THAT HE DID NOT EVEN KNOW THAT THE CHARGE READ EVEN EXISTED. THAT NO ONE EVER SERVED HIM THE CHARGE OF, JANUARY 30, 2002.

63. THE H/O IN RESPONSE NOTED THAT THE FORM #121 STATED OTHER WISE. THAT THE PLAINTIFF HAD BEEN INTERVIEWED AND HAD REFUSED TO COOPERATE AS NOTED BY BELANGER ON THE FORM.

64. THE PLAINTIFF IN RESPONSE TOLD THE H/O THAT BELANGER WAS LIEING THAT HE NEVER CAME TO BRING HIM THE CHARGE.

65. THE H/O BECAME UPSET AFTER THE PLAINTIFF HAVING SAID THAT. WORDS WERE EXCHANGE AND AS THE PLAINTIFF MADE HIS REMARKS ABOUT HIS LEGAL RIGHTS THE H/O RESPONDED BY THREATENING HIM OF BEING REMOVED FROM THE HEARING.

66. THE PLAINTIFF ASKED TO HAVE THE HEARING POSTPONE AND TO GIVE HIM A COPY OF THE CHARGE, SO THAT HE CAN PREPARE FOR THE HEARING THEREAFTER.

67. THE H/O IN RESPONSE SAID THAT SHE HAD ENOUGH AND WALKED OUT OF THE CONFERENCE ROOM AND RETURNED WITH TWO OFFICERS TO HAVE THE PLAINTIFF TAKEN BACK TO HIS CELL. AT WHICH TIME THE H/O TERMINATED THE HEARING.

68. THE H/O WENT ON TO ADJUDICATE THE CHARGE FINDING THE PLAINTIFF GUILTY ON BOTH OF THE CHARGES. ON THE OCTOBER 16, 2001, THE H/O FOUND HIM GUILTY AND NOTED ON THE FORM #121⁶ SECTION 8: "BASED ON 122⁷ AND 404⁸ THIS H/O FINDS I/M GUILTY AS CHARGED." I/M 9

69. ON THE JANUARY 30, 2002, CHARGE THE H/O FOUND HIM

6- FORM #121 IS THE FORM KNOWN AS THE "DCC RECORD OF DISCIPLINARY HEARING" WHERE THE RATIONALE IS RECORDED.

7- FORM #122 IS THE FORM USED TO PUT THE OFFENSE COMMITTED.

8- FORM #404 IS THE FORM USED TO WRITE THE INCIDENT WITH MORE DETAILS OF THE ACCOUNT.

9- I/M STANDS FOR INMATE

GUILTY AND NOTED ON THE FORM # 121 SECTION 8: "BASED ON 122 REPORT WHICH CLEARLY SUPPORTS OFFENSES WRITTEN-- THIS H/O FINDS I/M GUILTY AS CHARGED."

70. THE H/O SANCTIONED THE PLAINTIFF (15) DAYS ISOLATION FOR BOTH OF THE DISCIPLINARY CHARGES FOR A TOTAL OF (30) DAYS.

71. BASED ON THE FOREGOING, AT ALL RELEVANT TIMES GREEN WHILE ACTING UNDER COLOR OF STATE LAW ENGAGED IN CONDUCT CONSTITUTING DENIAL OF PROCEDURAL DUE PROCESS, SUFFICIENT TO DEPRIVE THE PLAINTIFF OF THE RIGHTS SECURED BY THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

72. AS A PROXIMATE RESULT OF THE DEFENDANT'S VIOLATIONS THE PLAINTIFF, MELVIN RUSEY, HAS SUFFERED INJURIES.

73. DEFENDANT GREEN, IS JOINTLY AND SEVERALLY LIABLE TO PLAINTIFF FOR DAMAGES WITH COSTS AND ATTORNEYS' FEES AND FOR PUNITIVE DAMAGES TO THE EXTENT ALLOWED BY THE LAW.

POINT 4

DENIAL OF PROCEDURAL DUE PROCESS

AGAINST DEFENDANT RENDINA

74. ON OR ABOUT, MARCH 22, 2002, THE PLAINTIFF FILED AN APPEAL TO DEFENDANT RENDINA, ASKING HIM TO REVIEW GREEN'S ACTIONS

AND SANCTIONS IMPOSED FOR TWO DISCIPLINARY REPORTS BEING ADJUDICATED. WHERE THE PLAINTIFF CLAIMED PROCEDURAL DUE PROCESS VIOLATIONS. IN ADDITION, ASKED RENDINA TO INVESTIGATE THE CURRENT PRACTICE BY THE PRISON OFFICIALS THAT HAS BEEN USED IN HIS CASE ALLEGEDLY TO HAVE FAIL TO CONDUCT THE PRELIMINARY HEARING REVIEW AND THEN TO HAVE HAD REPORTED ON THE FORM #121 THAT THE PLAINTIFF [HAD REFUSED TO SIGN THE FORM AND COOPERATE WITH THE PROCEEDINGS]. IN WHICH WAS A FALSE ACCOUNT OF EVENTS LEADING THE MATTER IN QUESTION.

75. RENDINA AS THE REVIEWING OFFICER PRESIDING OVER THE APPEAL FOR THE BUREAU OF PRISON, FAILED TO CONSIDER AND INVESTIGATE THE ALLEGATIONS PRESENTED ON APPEAL. WHICH INCLUDED THE ACTIONS CARRIED OUT BY THE HEARING OFFICER GREEN THAT WERE DONE DELIBERATELY AND MALICIOUS TO JUSTIFY HER [EXPULSION] OF PLAINTIFF FROM THE HEARING.

76. AT ALL RELEVANT TIMES, RENDINA WHILE ACTING UNDER COLOR OF STATE LAW CONSCIOUSLY DISREGARDED THE CLAIMS WHICH GAVE RISE TO THE PROCEDURAL DUE PROCESS SAFEGUARDS VIOLATIONS, SUFFICIENT TO DEPRIVE THE PLAINTIFF OF THE RIGHTS SECURED BY THE FOURTEENTH AMENDMENT TO THE UNITED STATES CONSTITUTION.

77. AS A PROXIMATE RESULT OF THE DEFENDANT'S VIOLATIONS THE PLAINTIFF, MELVIN PUSBY, HAS SUFFERED INJURIES.

7B. DEFENDANT RENDINA, IS JOINTLY AND SEVERALLY LIABLE TO PLAINTIFF FOR DAMAGES WITH COSTS AND ATTORNEYS' FEES AND FOR PUNITIVE DAMAGES, TO THE EXTENT ALLOWED BY THE LAW.

V.

RELIEF

WHEREFORE, PLAINTIFF PRAYS FOR JUDGMENT:

- (a) ON THE FIRST COUNT AGAINST DEFENDANT BELANGER, DUAN, GARDELS, DOE 1 AND DOES 2-10, JOINTLY AND SEVERALLY, FOR COMPENSATORY AND PUNITIVE DAMAGES IN AMOUNTS TO BE DETERMINED AT TRIAL; AND
- (b) ON THE SECOND COUNT AGAINST BELANGER, JOINTLY AND SEVERALLY, FOR COMPENSATORY AND PUNITIVE DAMAGES IN AMOUNTS TO BE DETERMINED AT TRIAL; AND
- (c) ON THE THIRD COUNT AGAINST GREEN, JOINTLY AND SEVERALLY, FOR COMPENSATORY AND PUNITIVE DAMAGES IN AMOUNTS TO BE DETERMINED AT TRIAL; AND
- (d) ON THE FOURTH COUNT AGAINST RENDINA JOINTLY AND SEVERALLY, FOR COMPENSATORY AND PUNITIVE DAMAGES IN AMOUNTS TO BE DETERMINED AT TRIAL.
- (e) GRANT SUCH OTHER RELIEF AS MAY BE JUST AND PROPER THAT THE PLAINTIFF IS ENTITLED TO.

VI.

PURSUANT TO SUPER. CT. R.C.P. 38 JURY TRIAL

PLAINTIFF HEREBY DEMANDS A TRIAL BY A JURY OF ALL OF
THE ISSUES SO TRIABLE.

SIGNED THIS 17th DAY OF SEPTEMBER, 2002.

PURSUANT TO 28 USC § 1746, I DECLARE UNDER PENALTY
OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

MELVIN PUSEY
MELVIN PUSEY

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

MELVIN PUSEY,

plaintiff,

v.

JOSEPH H. BELANGER ET AL.,

DEFENDANTS.

CIVIL ACTION

No: _____

MEMORANDUM OF LAW IN SUPPORT OF MOTION
FOR APPOINTMENT OF PRO BONO COUNSEL

MELVIN PUSEY
PREPARED BY:

MELVIN PUSEY #141523
DCC/1181 PADDOCK RD
SMYRNA, DELAWARE 19977

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

IN AND FOR NEW CASTLE COUNTY

MELVIN PUSEY,

plaintiff,

v.

JOSEPH H. BELANGER, ET AL.,
DEFENDANTS.

CIVIL ACTION

MEMORANDUM OF LAW
FOR APPOINTMENT OF
PRO BONO COUNSEL

THIS IS A CIVIL RIGHTS ACTION CASE FILED BY A STATE PRISONER ASSERTING CLAIMS FOR THE UNCONSTITUTIONAL MISUSE OF FORCE, THE DENIAL OF DUE PROCESS IN SUBSEQUENT DISCIPLINARY PROCEEDINGS, AND THE DENIAL OF MEDICAL CARE FOR INJURIES INFLICTED DURING THE MISUSE OF FORCE. THE PLAINTIFF SEEKS DAMAGES AS TO ALL CLAIMS.

THE COMPLAINT ALLEGES THAT THE PLAINTIFF WAS ASSAULTED BY SEVERAL CORRECTIONAL OFFICERS, RECEIVING A NUMBER OF INJURIES. WHEN THE PLAINTIFF ASKED FOR MEDICAL ATTENTION THE OFFICIALS DENIED HIM ANY TREATMENT OR CARE FOR HIS INJURIES. OFFICERS DELIBERATELY CONFINED HIM INTO A CELL INHUMANE FOR HABITATION AND STRIPPED OF ALL HIS CLOTHES AND ALL BASIC

ESSENTIALS FOR THE LIVING IN SAID CELL. THE PLAINTIFF WAS CONVICTED OF TWO DISCIPLINARY CHARGES AT A HEARING. THE HEARING OFFICER DELIBERATELY REFUSED TO PROVIDE COPIES OF THE DISCIPLINARY CHARGES AND TO PROVIDE HIM A (24/HOUR) POSTPONEMENT TO PREPARE HIMSELF FOR THE CHARGES AND TO FURTHER MAKE THINGS IN HER FAVOR SHE DELIBERATELY ENGAGED IN DISRUPTIVE BEHAVIOR TO ENLITE A CONFRONTATION AND EXPULSE THE PLAINTIFF FROM THE HEARING. IN HER DECISION SHE FOUND HIM ["GUILTY AS CHARGED"] BASED ON THE REPORT WITH NO FURTHER EXPLANATION. THE DEFENDANT RENDINA DENIED THE PLAINTIFF'S DISCIPLINARY APPEAL.

THE COURT SHOULD APPOINT COUNSEL FOR THE PLAINTIFF

IN DECIDING WHETHER TO APPOINT COUNSEL FOR AN INDIGENT LITIGANT, THE COURT SHOULD CONSIDER "THE FACTUAL COMPLEXITY OF THE CASE, THE ABILITY OF THE INDIGENT TO INVESTIGATE THE FACTS, THE EXISTENCE OF CONFLICTING TESTIMONY, THE ABILITY OF THE INDIGENT TO PRESENT HIS CLAIM AND THE COMPLEXITY OF THE LEGAL ISSUES." ABDULLAH V. GUNTER, 949 F.2d 1032, 1035 (8th Cir. 1991) (CITATION OMITTED), CERT. DENIED, 112 S.Ct. 1995 (1992). IN ADDITION, COURTS HAVE SUGGESTED THAT THE MOST IMPORTANT FACTOR IS WHETHER THE CASE APPEARS TO HAVE MERIT. COOPER V. A. SARGENTI Co., Inc., 877 F.2d 170, 173 (2d Cir. 1984). EACH OF THOSE FACTORS WEIGHS IN FAVOR OF APPOINTING COUNSEL IN THIS CASE.

1. THE PLAINTIFF ALLEGES THAT SEVERAL CORRECTIONAL OFFICERS PHYSICALLY ABUSED HIM, WHILE OTHERS STOOD BY AND WATCHED. HE CHALLENGES THE INHUMANE TREATMENT OF CONFINEMENT IN THE STRIP CELL, AND ALSO THE MEDICAL CARE DENIAL AFTER THE INCIDENT. FINALLY, HE CLAIMS DENIAL OF PROCEDURAL DUE PROCESS BY A DISCIPLINARY HEARINGS OFFICER AND A DIRECTOR. THE SHEER NUMBER OF CLAIMS AND DEFENDANTS MAKES THIS A FACTUALLY COMPLEX CASE.

2. THE PLAINTIFF IS LOCKED UP IN PUNITIVE SEGREGATION AND HAS NO ABILITY TO INVESTIGATE THE FACTS. FOR EXAMPLE, HE IS UNABLE TO IDENTIFY, LOCATE AND INTERVIEW THE INMATES WHO WERE HOUSED IN NEARBY CELLS AND WHO SAW SOME OR ALL OF THE MISUSE OF FORCE. HE IS IN THE SAME SITUATION AS AN INMATE WHO HAS BEEN TRANSFERRED TO A DIFFERENT INSTITUTION, A FACTOR THAT SEVERAL COURTS HAVE CITED IN APPOINTING COUNSEL. TUCKER V. RANDALL, 948 F.2d 388, 391-92 (7TH CIR. 1991); GATSON V. COUGHLIN, 679 F.Supp. 270, 273 (E.D. Wis 1988); ARMSTRONG V. SNYDER, 103 F.R.D. 96, 105 (E.D. Wis 1984). IN ADDITION, THIS CASE WILL REQUIRE CONSIDERABLE DISCOVERY CONCERNING THE IDENTITY OF WITNESSES, THE OFFICERS' REPORTS AND STATEMENTS ABOUT THE INCIDENT, THE HISTORY OF THE OFFICERS WITH PRIOR RECORDS OF MISUSE OF FORCE AND THE PLAINTIFF'S MEDICAL-- . SEE, TUCKER V. DICKEY, 613 F. Supp. 1124, 1133-34 (W.D. Wis 1985) (NEED FOR DISCOVERY SUPPORTED APPOINTMENT OF COUNSEL).

3. THE PLAINTIFF'S ACCOUNT OF HIS BEATING BY OFFICERS IS SQUARELY IN CONFLICT WITH THE STATEMENTS OF THE OFFICERS. THIS ASPECT OF THE CASE WILL BE A CREDIBILITY CONTEST BETWEEN THE DEFENDANTS AND THE PLAINTIFF (AND SUCH PRISONER WITNESSES AS CAN BE LOCATED). THE EXISTENCE OF THESE CREDIBILITY ISSUES SUPPORTS THE APPOINTMENT OF COUNSEL. GATSON V. LOUGHLIN, 679 F.SUPP. 270, 273 (W.D.N.Y. 1988).

4. THE PLAINTIFF IS AN INDIGENT PRISONER WITH NO LEGAL TRAINING, A FACTOR THAT SUPPORTS THE APPOINTMENT OF COUNSEL. WHISENANT V. YUAM, 739 F.2d 160, 163 (4TH CIR. 1984). IN ADDITION, HE IS CONFINED TO SEGREGATION. RAYES V. JOHNSON, 969 F.2d 700, 703-04 (8TH CIR. 1992) (CITING LACK OF READY ACCESS TO A LAW LIBRARY AS A FACTOR SUPPORTING APPOINTMENT OF COUNSEL).

5. THE LARGE NUMBER OF DEFENDANTS, SOME OF WHOM ARE SUPERVISORY OFFICIALS, PRESENTS COMPLEX LEGAL ISSUES OF DETERMINING WHICH DEFENDANTS WERE SUFFICIENTLY PERSONALLY INVOLVED IN THE CONSTITUTIONAL VIOLATIONS TO BE HELD LIABLE. IN ADDITION, THE PLAINTIFF ASKS FOR A JURY TRIAL WHICH REQUIRES MUCH LEGAL SKILLS THAN THE PLAINTIFF HAS OR CAN DEVELOP. SEE, ABDULLAH V. GUNTER, 949 F.2d 1032, 1036 (8TH CIR. 1991) (CITING JURY DEMAND AS A FACTOR SUPPORTING APPOINTMENT OF COUNSEL) CERT. DENIED, 112 S.Ct. 1995 (1992).

6. THE PLAINTIFFS ALLEGATIONS, IF PROVED, CLEARLY WOULD ESTABLISH A CONSTITUTIONAL VIOLATION. THE UNPROVOKED AND INJURIOUS BEATING ALLEGED IN THE COMPLAINT CLEARLY STATES SUPPORTING FACTS ALONG WITH THE INHUMANE TREATMENT OF CONFINEMENT TO THE STRIP CELL CONTAINING FECEES ETC. AND THE WITHDRAWAL OF ALL OF THE BASICS ESSENTIAL ALL CLEARLY STATES AN EIGHT AMENDMENT VIOLATION. SEE, HUDSON V. McMillan, ___ US ___, 112 S.Ct. 995, 1000 (1992). THE ALLEGATIONS OF DENIAL OF MEDICAL CARE AFTER THE BEATING AS WELL CONSTITUTE CRUEL AND UNUSUAL PUNISHMENT IN VIOLATION OF THE EIGHT AMENDMENT. THE UNJUSTIFIED DENIAL OF A COPY OF THE CHARGE AND THE POSTPONEMENT AND CONVICTION OF THE DISCIPLINARY OFFENSE AND THE FAILURE TO GIVE A MEANINGFUL STATEMENT OF REASONS FOR THE DECISION ARE ALL PLAIN VIOLATIONS, INCLUDING THE REVIEW OF THE DISCIPLINARY OFFENSE IN APPEAL ARE ALL IN VIOLATIONS OF DUE PROCESS. PONTE V. REAL, 471 US 491, 497, 105 S.Ct. 2192 (1985); SUPERINTENDENT V. HILL, 472 US 445, 457, 105 S.Ct. 2768 (1985); DYSON V. KOCIK, 689 F.2d 466, 467-68 (3rd Cir. 1982). ON ITS FACE, THEN, THIS IS A MERITORIOUS CASE.

CONCLUSION

FOR ALL OF THE FOREGOING REASONS, THE COURT SHOULD GRANT THE PLAINTIFFS MOTION AND APPOINT PRO BONO COUNSEL IN THIS CASE.

9/17/02
DATE

MELVIN PUSEY
MELVIN PUSEY

MELVIN PUSEY #141523
DCC/1181 PADDOCK Rd.
SMYRNA, DELAWARE 19977

I was arrested in 1987 charged with a Robbery and weapons charges 1 1/2 years after the crime, I was cleared by Attorney General Joe Brady due to No Evidence no weapons to support weapons charges, Nothing but statements these other people got together to falsify on me to clear another guy who was originally charged, his family his mother fabricated statements and he gave 5 different statements to Police and I got indicted on No weapons robbery and my attorney failed to file Pretrial Motions to Suppress the Confessions of A Co-defendant and failed to file Motions to Suppress the Conflicting Statement as Early as the State's witnesses all gave two to 3 different accounts of their statements, to all conform their statement against me and Violated, 11DC.3507(A) ~~Due to My~~ I was sent to Virginia Greenville Cor. Center and was seeking interstate Compact due to How I was set up in the State, Prior to getting this granted I was Returned to Delaware all business with me this had Problems, with other inmates trying to set me up on inst. to find charges all Staff Members as Retaliation for my filing a Petition for writ of Habeas Corpus 2254 (State) attacking my illegal detention, and for no other reason but Retaliation I was Moved from Medium Security General Population without Any Classification hearing to "SHU" Super Max which is a Segregation unit. I was Moved Dec. 11th 2000, the whole Classification line guaranteed it to No Avail or Responses. in Approx Jan 10th I was approached by the Counselor Jack Stephenson ^{Stephenson} told him I was classified by the FBCC to go to Sussex Cor. Center, and I wait to know "why" I'm in SHU and who put me there and He said your live deal with it and I could get some Paper telling me I'm on some Quality of life level 1 and I could go to Commissary or get Hygiene Products or Nothing that I got to complete these life level Programs to earn back Privileges already guaranteed me and I already had coming in there, I was in Bldg 17 on B-tier lower 1 where I was put in a third cell with the Shower water slowly running in that cell, approx in February approx the 14th I held up food tray again Requesting to see someone about my improper Segregation I requested to see Deputy Warden Larry McGuire, instead I was Approached by 2 C/Os Juarez and another John Doe officer and Cuffed behind my Back and Shackled by my legs and took into an interview Room and Lt. Westerman Darren Stevenson comes in this Room says unless the Hell you Problem, I said I was fraud in this State, my legal documents are out in the possession of a lawyer who don't respond to my letters I'm being deprived of my Equal Privileges and I want classified. Kue I want to speak to Deputy Warden Larry McGuire at which time He pushed me Backwards and I was Knocked down hitting my Head on the floor. I filed an initial Complaint under 1983 Civil Complaint against Warden Snyden, Leo Boyle Head of Classification, Ron Holstman Treatment Adm. Counselors Jack Stephenson, and Jennifer Wallitch for Violating My Due Process and Having Me Illegally and improperly Segregated in Super Max when I have no Associates or Staff or inmates to justify being in Super Max I put out a Pay to lawyers the lawsuit and the Courts Never got it and my Complaint was dismissed with out Prejudice. approx between the Dates of Jan of 2001 to April 2001 I did these life level Programs for level 1 2 times and Approx April 25th I was Approached by Counselor Todd Kramer who is a former C/O turned Counselor and He

tells me I'm on level 2 all the time in the prison in June 1983 you
Bain steady moving other people in a week, Month & Month only single me out
He says that's how it is, so we exchanged words, next thing I'm took to
an office with this Captain Joe Balliger and Lt. Heerin and Balliger and
Counselor Kramer tells the Capt. Balliger I counsel him out and sent him
down the Dept. Capt. Balliger calls me a faggot and says I got
a better tier to put you on and has me took to Bldg #18 on the
C-tier, I was put in the cell lower 3 with nothing but a mattress
and no undershorts from May 7th all the way to June 15th, I requested
numerous times to see Dept. Warden Larry McGuire with no reply I
upheld than disciplinary action is only implemented for 15 days that I'm to
be moved at that Strip Status is unconst. and 8th August violation
of civil unused Punishment. Major Charles Cunningham came approxing 8th on
9th and I told him my situation He says you're in here tied release
and release (get) to let you go Nowhere, so I under all the mental and
emotional abuse and stress set off the water sprinkler in the cell,
Capt. Balliger had me stand naked for 5 days in the wet cell with
no clothes or blankets cold air blowing from the 14th of May to
the 19th I got America and Medical had to give me a shot of
Pernix, I refused and asked for Pillo but was denied so I took
the shot. I am in C-Lower - 6 presently and I have been on this
tier since April 25th I am being told I cannot move till I complete
these programs by Counselor Jack Stephenson and this Medical Health
worker Jim Simms they took me in an office with Captain Balliger and
Lt. Ben Jager. telling me I can't leave unless the 5th and never going home
and will not put me in a cell with a tie to even do any
programs. I'm being denied access to the phone to call my family or make
legal calls, being deprived of counseling and hygiene products when I get
money to purchase my clothing and I'm being denied case of my
Habeas Corpus line been like this since Dec 11th and more worse
conditions since April 25th on this C-tier in Bldg #18. I got no
T.V. Radio both but trying to get a lawyer to file by 1983 and get
an injunction to have me transferred from this institution
and get me a hearing on my writ of Habeas Corpus. I've asked to
be moved to Gen. Population or Protective Custody and I'm being denied
help and in here safety on rumors and false statements. I'm asking you
to take my case and if so my father's # is 736-1374 (LARRY) Call him
and he will give you a Retainer, I got these people who did
this and the Prothonotary office is all refusing me the
statements and transcripts to show I was illegally incarcerated
and I'm on it seriously need help, they are real really
me. other inmates on this tier know the abuses Capt. Balliger
and Dept. Warden McGuire and their Sabon divorcee

F0025

PG#137

any of the over here at Dept. of Justice. I want to know if they
are willing to correct the situation. Mr. Marvel I need
a lawyer to get all the documents and transcripts back in my case to
prove what they did to me, and help me on my Habeas Corpus
and on my 1983 and get me transferred from the Prison permanently
on Mount Airy to Gen. Popolator
go to court there denying me all from the SHO. I will
own I need serious legal help immediately, you I get trial
your Reply is appreciated.

Also had someone sending out letters
in my name I didn't write too
to Court ect, false Confessions
ect.

Sincerely
James Caldwell Jr.
#193950
SHU Bldg #18
C-L-6

Mr. Marvel my father will (pay) you more
and me time served on my conviction
and move me to PA Pennsylvania
where I get fresh air & state cell
my father will pay you.
I've got cases to support
my situation, thank you
I hope you will take my case
and call to my father
cause this is my to
get me a lawyer.

8-2-01

They (as in the C/O's)
 and captain Belanger
 duct tape me my whole
 face they sometimes refuse
 to give me my meals
 I'm fear of my life
 by the hands of correctional
 officer the beat^{me} up the
 handcuff me for my rec everyth.
 I come out for recreation
 they also hogtied me to an cage
 on 4-26-01

Louis D. Dickerson

Louis Darnell Dickerson

aclu delaware

Mr. Shane Hopkins
SBI# 00253918
Delaware Correctional Center
P.O. Box 500
Smyrna, DE 19977

Dear Mr. Hopkins,

We very much appreciate your sending us the information you did regarding your treatment at D.C.C. We also appreciate the information you provided from Mr. Collingwood and Mr. Dickerson. We will see to it that all the information is included in our investigation.

At the present time while working with prison officials we are also encouraging an interested reporter to investigate the conditions in Delaware prisons. Unfortunately your recent letter to us did not provide us permission to release your name and SBI number to the reporter in hopes you would be contacted to provide information. If this was an oversight on your part simply provide us written authorization otherwise we will not release your name to the reporter or anyone else. Even if you choose not to have your name given to the reporter we appreciate the information you provided and will make use of it in our ongoing attempt to improve conditions within the prison system.

Again, we thank you for assisting us in our efforts to improve the conditions at D.C.C. Thank you for considering our request and we look forward to receiving your permission.

Sincerely,

Diane Winters
Intake Representative

ATTACHMENTS
SECTION "J"

MEMO

TO: I/M Shane Hopkins #253918

FROM: Brian Engrem, SHU Law Library Paralegal

DATE: March 15, 2006

RE: Marshal Forms

Marshal forms are given out to inmates only upon the court granting an order for such action to take place. The reason I am asking for a copy of the court order is so I have some reference as to why I gave you the forms. The court order will be sent back to you. In addition, no marshal forms are given out unless there is an order as evidence to show the court requested the forms. You can read this in the instructions for filing a civil complaint in the U.S. District Court.

Cc: File

PG #141

Inmate Name	SBI #	Date In	Date Out	Request Type	Staff
Shane Hopkins	253918	12/15/2005	12/15/2005	Response (See File)	B.E.
Shane Hopkins	253918	12/19/2005	12/20/2005	SB159 140th GA	B.E.
Shane Hopkins	253918	12/19/2005	12/20/2005	Photocopies 144pgs.	B.E.
Shane Hopkins	253918	12/28/2005	1/5/2006	Photocopies 13pgs	B.E.
Shane Hopkins	253918	12/28/2005	1/5/2006	Photocopies (20pgs)(1)2254Form	B.E.
Shane Hopkins	253918	12/28/2005	1/5/2006	(1)WaiverForm;Request for Notary	B.E.
Shane Hopkins	253918	1/10/2006	1/12/2006	Photocopies 10pgs; 1ea.2254,IFP, SixMoReq, F4	B.E.
Shane Hopkins	253918	1/10/2006	1/12/2006	1ea. CIS, 1983, IFP Forms; USCA 42 s.1983	B.E.
Shane Hopkins	253918	1/10/2006	1/12/2006	USCA 28 s.636, 1915; FRCP 73 & Sheps.	B.E.
Shane Hopkins	253918	1/13/2006	1/13/2006	Photocopies 9pgs; 15b Mot	B.E.
Shane Hopkins	253918	1/17/2006	1/18/2006	Photocopies 12pgs;(1)1ea.SuperCtCVPl,IFP	B.E.
Shane Hopkins	253918	1/17/2006	1/18/2006	SixMoReqForm	B.E.
Shane Hopkins	253918	1/26/2006	1/27/2006	Photocopies 67pgs; ShepUSCA18s636, 1915	B.E.
Shane Hopkins	253918	1/31/2006	2/2/2006	Request for Notary; West FedFormsAppt.Couns	B.E.
Shane Hopkins	253918	1/31/2006	2/2/2006	US Dist Ct Appt. Counsel Form	B.E.
Shane Hopkins	253918	2/13/2006	2/14/2006	3FedFormsSec.3051,3053,40,3052,40,3080-81	B.E.
Shane Hopkins	253918	2/13/2006	2/14/2006	3FedFormsSec.3083-86; Ct Case (1) 4 pgs.	B.E.
Shane Hopkins	253918	2/13/2006	2/14/2006	Photocopies 24 pgs.	B.E.
Shane Hopkins	253918	3/6/2006	3/7/2006	Six Mo Reg Forms; DE S Ct 15b Mot.	B.E.
Shane Hopkins	253918	3/6/2006	3/10/2006	Return CC Penal Discipline	B.E.
Shane Hopkins	253918	3/6/2006	3/6/2006	CC Penal Discipline return by 3/10/06	B.E.
Shane Hopkins	253918	3/14/2006	3/16/2006	Ct Case (1) 17 pgs; KeyIndex-Const.&Cr.Law	B.E.
Shane Hopkins	253918	3/14/2006	3/16/2006	Response (See File)	B.E.
Shane Hopkins	253918	3/14/2006	3/14/2006	Return Ct. Cases (2)	B.E.



STATE OF DELAWARE
DEPARTMENT OF CORRECTION
DELAWARE CORRECTIONAL CENTER
Legal Services Administrator
Smyrna Landing Road
SMYRNA, DELAWARE 19977
Telephone: (302) 653-9261
Fax: (302) 659-6687

Law Library Access Inmate Shane Hopkins #00253918

The following is a breakdown of legal activities for Inmate **Shane Hopkins #00253918** for the time period of May 1, 2006 – present:

Requests for Services MHU Law Library = 3

Date Request Rec'd	Item Requested	Date Items Mailed
May 2, 2006	Penal Code of Conduct, Court Forms, PSHLM pgs. 85-128	5/2/06
May 24, 2006	Cases (+5), PSHLM pgs. 367-396	5/24/06
June 13, 2006	Photocopies	6/13/06

Number of Photocopy Requests = 1

Number of pages copied = 42

Date of Request	Item Copied	Date Rec'd
6/13/06	Motion Appt Counsel U.S. District Court	6/13/06

** No Requests for Notary were received from I/M Shane Hopkins for the time period listed.

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

SHANE K. HOPKINS,

Plaintiff,

v.

C.A. No. 05-870-SLR

JOHN PUSEY, JOSEPH SMITH,
DAVID PIERCE, LISE MERSON,
JUDITH MULLEN, DREWRY FENNELL,
M. JANE BRADY

Defendants.

AFFIDAVIT OF BRIAN ENGREM

I, Brian Engrem, having been duly sworn according to the law, do hereby depose and state the following:

1. I am employed by the State of Delaware, Department of Correction at the Delaware Correctional Center ("DCC") near Smyrna, Delaware as a Paralegal. I have been employed by the Department of Correction for 5 years. My duties include providing legal materials to inmates as requested in the SHU (Security Housing Unit). This information is accessed through Westlaw or from existing files of the SHU Law Library. Also, I provide photocopies and notary service to inmates. I assist with managing and maintaining a file for each inmate regarding their legal requests while housed in the SHU. I have held this position since April 1, 2001.

2. In response to a request from the State of Delaware Department of Justice, I have obtained documentation relating to the frequency of inmate Shane Hopkins's law library usage, the number of uses of the prison's notary, and the frequency and volume of copied pages of legal material provided to Mr. Hopkins by the Delaware Correctional Center.

3. On March 6, 2006, I went to see inmate Hopkins regarding his request for Marshal forms. It is the policy of the law libraries of the Delaware Correctional Center to see the court order for marshal forms prior to giving them to an inmate. I asked for the court order.

4. I wanted to take the court order back to the office and copy it in order to check with the clerk of court on the number of forms inmate Hopkins required. I told Mr. Hopkins that I would return the court order to him, but I need a copy of the order so that I have a record of the order and the number of forms given to the inmate.

5. Inmate Hopkins refused to give the order to me, and I explained that he would then have to send the order to me via the in-house mail, in order to get the forms. Inmate Hopkins then yelled to me that he would file a grievance.

6. I have reviewed inmate Hopkins's law library use logs. He used the services of the SHU and MHU libraries a total of twenty eight times since December 15, 2005. The law libraries have made 341 pages of photocopies for him since that date. He has used the notary services twice.


7. Inmates do not pay for copies made by the law library. The 341 pages of copies do not include copies of case law and statutes made for inmate Hopkins. When compiling a total of the photocopies made for any inmate, the case law, statutes, regulations etc., are not included in the total.

8. On the law library log attached to Defendants' answer to this motion, the heading "date in" mean that the request was received from the inmate on that date. The heading "date out" means that the requested materials were sent to the inmate on that date.

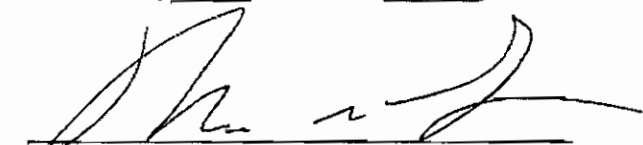
9. Inmate Hopkins continues to have access to the above-listed legal resources.

10. I have made these statements based upon my personal knowledge, specialized

training, and experience as an employee of the Department of Correction.


Brian Engrem

SWORN TO AND SUBSCRIBED BEFORE ME THIS 20th DAY OF June, 2006.


NOTARY

DCC Delaware Correctional Center
Smyrna Landing Road
SMYRNA DE, 19977
Phone No. 302-653-9261

GRIEVANCE REPORT

OFFENDER GRIEVANCE INFORMATION

Offender Name : HOPKINS, SHANE K **SBI# :** 00253918 **Institution :** DCC
Grievance # : 13918 **Grievance Date :** 05/15/2005 **Category :** Individual
Status : Resolved **Resolution Status :** Level 1 **Resol. Date :** 05/27/2005
Grievance Type: Law Library **Incident Date :** 05/15/2005 **Incident Time :**
IGC : Merson, Lise M **Housing Location :** Bldg 17, Lower, Tier A, Cell 4, Single

OFFENDER GRIEVANCE DETAILS

Description of Complaint: On 5-10-05 I sent a letter to the law library for copies. Attached to this request for copies was a pair of grievances. Brian Engram sent me a memo on 5-10-05 telling me that he would not copy grievances.

Remedy Requested : I want an investigation conducted as to why Brian Engram refused to provide me with legal copies.

INDIVIDUALS INVOLVED

Type	SBI #	Name
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Inmate Copy

ADDITIONAL GRIEVANCE INFORMATION

Medical Grievance : NO **Date Received by Medical Unit :**
Investigation Sent : **Investigation Sent To :** Little, Michael
Grievance Amount :

Delaware Correctional Center
Smyrna Landing Road
SMYRNA DE, 19977
Phone No. 302-653-9261

GRIEVANCE REPORT

OFFENDER GRIEVANCE INFORMATION

Offender Name : HOPKINS, SHANE K **SBI# :** 00253918 **Institution :** DCC
Grievance # : 13917 **Grievance Date :** 05/15/2005 **Category :** Individual
Status : Resolved **Resolution Status :** Level 1 **Resol. Date :** 05/27/2005
Grievance Type: Law Library **Incident Date :** 05/15/2005 **Incident Time :**
IGC : Merson, Lise M **Housing Location :** Bldg 17, Lower, Tier A, Cell 4, Single

OFFENDER GRIEVANCE DETAILS

Description of Complaint: On 5-10-05 Brian Engram refused to notarize a 11 Del C written request for final disposition of any criminal cases I may have pending. He said he would not notarize anything going to a staff member.

Remedy Requested : Investigate refusal to notarize a legal request.

INDIVIDUALS INVOLVED

Type	SBI #	Name
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Inmate Copy

ADDITIONAL GRIEVANCE INFORMATION

Medical Grievance : NO **Date Received by Medical Unit :**
Investigation Sent : **Investigation Sent To :** Little, Michael
Grievance Amount :

DCC Delaware Correctional Center

Smyrna Landing Road

SMYRNA DE, 19977

Phone No. 302-653-9261

GRIEVANCE REPORT**OFFENDER GRIEVANCE INFORMATION**

Offender Name : HOPKINS, SHANE K	SBI# : 00253918	Institution : DCC
Grievance # : 14471	Grievance Date : 05/26/2005	Category : Individual
Status : Unresolved	Resolution Status :	Resol. Date :
Grievance Type: Staff Issues	Incident Date : 05/26/2005	Incident Time : 10:00
IGC : Merson, Lise M	Housing Location : Bldg 17, Lower, Tier A, Cell 4, Single	

OFFENDER GRIEVANCE DETAILS

Description of Complaint: On 5-15-2005 I filed a grievance against Brian Engrem regarding his denial to make copies of legal attachments for US Attorney Connolly.

On 5-20-2005, Brian Engrem came to my cell to do Notary. Briam Engram questioned me and sought a resolution about the grievances I filed against him. No one else was present. Mike little was not here and it is my understanding that it is his job to investigate these grievances.

How is it that Brian Engrem obtained copies of this grievance and how is it that he came to resolve grievances filed against him.

Throughout this incident Brian Engrem seemed unwilling to notarized my material without first resolving the grievances I filed against him.

I felt pressured to resolve the grievances so that I could get my material notarized. So I agreed to except Brian Engrams solutions despite the fact that his offered excuses for why he did not copy my material where without substance.

Brian Engram was fully aware that the copies I needed where to be sent to Attorney Connolly.

Remedy Requested : Under what rule of authority did Brian Engrem have the right to question or seek resolution about grievances that I filed against him. And why didn't Mr. Little investigate them. How did Brian Engrem get the grievances I filed against Him!

INDIVIDUALS INVOLVED

Type	SBI #	Name
------	-------	------

ADDITIONAL GRIEVANCE INFORMATION

Medical Grievance : NO	Date Received by Medical Unit :
Investigation Sent :	Investigation Sent To : Pierce, David E Jr.
Grievance Amount :	

FORM #584

GRIEVANCE FORM

W/Ad
9-29-05FACILITY: D.C.C SmyrnaDATE: JUNE 20th 2005GRIEVANT'S NAME: Shane HopkinsSBI#: 00253918CASE#: 18070TIME OF INCIDENT: N/AHOUSING UNIT: S.H.U #17-A-L141

BRIEFLY STATE THE REASON FOR THIS GRIEVANCE. GIVE DATES AND NAMES OF OTHERS INVOLVED IN THE INCIDENT OR ANY WITNESSES.

ON 6-13-05 I SENT A LAW LIBRARY SLIP ASKING FOR 50 COPIES OF A LETTER TO THE ACLU OF DELAWARE. PRIOR TO THIS BRIAN ENGBREM DID REFUSE TO COPY THE SAME LETTER SAYING BREWERY NASH FENNEL WAS NOT AN ATTORNEY. NOW HE IS DENYING ME COPIES TO SEND TO OTHER STATE OFFICIALS WHO ARE CC: AS GETTING A COPY OF THIS LEGAL LETTER.

BRIAN ENGBREM HAS CONSISTANTLY HARRASSED, PREVENTED OR OUT RIGHT DENIED ME MATERIALS, COPIES ECT. I HAVE NOTIFIED DEPUTY WARDEN PIERCE BECAUSE ALL REQUESTED MATERIALS IS BASED APOON AN ASSAULT ON ME BY GUARDS.

ACTION REQUESTED BY GRIEVANT: Provide me with copies to CC. SERVE ALL PARTIES LISTED IN LEGAL CORRISPONDANCE / LETTERS. STOP BRIAN ENGBREM'S RETALIATORY ACTS THAT DELAY ME ACCESS TO THE COURTS.

GRIEVANT'S SIGNATURE: _____

DATE: _____

WAS AN INFORMAL RESOLUTION ACCEPTED? _____ (YES) _____ (NO)

(COMPLETE ONLY IF RESOLVED PRIOR TO HEARING)

GRIEVANT'S SIGNATURE: _____

DATE: _____

IF UNRESOLVED, YOU ARE ENTITLED TO A HEARING BY THE RESIDENT GRIEVANCE COMMITTEE.

cc: INSTITUTION FILE
GRIEVANT

April '97 REV

RECEIVED

JUL 05 2005

Inmate Grievance Office

Pg # 150

DCC Delaware Correctional Center
Smyrna Landing Road
SMYRNA DE, 19977
Phone No. 302-653-9261

GRIEVANCE REPORT

OFFENDER GRIEVANCE INFORMATION

Offender Name : HOPKINS, SHANE K	SBI# : 00253918	Institution : DCC
Grievance # : 15021	Grievance Date : 07/01/2005	Category : Individual
Status : Unresolved	Resolution Status :	Resol. Date :
Grievance Type: Law Library	Incident Date : 07/01/2005	Incident Time :
IGC : Vargas, Rosalie	Housing Location : Bldg 17, Lower, Tier A, Cell 4, Single	

OFFENDER GRIEVANCE DETAILS

Description of Complaint: Inmate states: Sent Brian Engram a letter for ACLU of Del. Prior to this Brian Engram refused to copy a letter to the same to Drewery Nash Fennell Esq saying she was not an attorney. Then after 1 month of delays I found that that she is an attorney. I resubmitted the letter and clearly on 6-13-05 law library slip I asked for 5 copies. On 6-6-05 he sent only 1 copy. 6-20-05 I requested 4 more copies. 6-30 4 copies where sent. This was intended as a continued pattern of acts towards my asserting my vested rights violated to public officials. Also during this 2 months BE asserted he did not receive my 2nd letter. I was forced to rewrite same letter 4 times.

Remedy Requested : Investigate and institute a 24 to 48 hour turn around for all copies sent to law library.

INDIVIDUALS INVOLVED

Type	SBI #	Name
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ADDITIONAL GRIEVANCE INFORMATION

Medical Grievance : NO	Date Received by Medical Unit :
Investigation Sent :	Investigation Sent To : Little, Michael
Grievance Amount :	

Inmate Copy

FORM #584

GRIEVANCE FORM

FACILITY: D.C.C. Smyrna DATE: JANUARY 16th 2006
 GRIEVANT'S NAME: SHANE HOPKINS SBI#: 253918
 CASE#: 23325 TIME OF INCIDENT: N/A
 HOUSING UNIT: S.H.U. 17-A-14

BRIEFLY STATE THE REASON FOR THIS GRIEVANCE. GIVE DATES AND NAMES OF OTHERS INVOLVED IN THE INCIDENT OR ANY WITNESSES.

BRIAN ENGREM PARALEGAL FOR S.H.U. LAW LIBRARY SINCE 1-8-06 LAW LIBRARY SLIP HAS DENIED ME ACCESS TO THE FOLLOWING BILLS AND HAS KEPT AND NOT RETURNED MY LAW LIBRARY SLIP P#2 OF 2 OF MY 1-8-06 ORDER FORM UP TO 1-16-06 WHERE I REQUESTED THAT HE RETURN MY COPY. BRIAN ENGREM HAS 3 TIMES NOW REFUSED TO PROVIDE ME ACCESS TO MATERIALS NEEDED TO COMPLETE MY COURT ORDER* IN APPEAL NO: 364, 2005. THESE DENIALS ARE DONE WITH THE PRECURSORY AND DIRECT KNOWLEDGE OF THE OUT COME OF HIS ACTIONS DENYING ME ACCESS TO MATERIALS NEEDED TO RESPOND TO A COURT ORDER** HAS FORCED ME TO PETITION THE COURTS FOR AN DEADLINE EXTENTION.

ACTION REQUESTED BY GRIEVANT: Provide Access To:

A) 62 DEL LAW C. 317 S2-130th G.A. - H.B. # 394 - 4 PAGES
 B) 70 DEL LAW C. 186 S1-135th G.A. - S.B. # 211 - 8 PAGES
 By 2-28-05 THE DUE DATE TO MY OPENING BRIEF ON APPEAL NO: 364, 2005

GRIEVANT'S SIGNATURE: Shane Hopkins DATE: 1-16-06

WAS AN INFORMAL RESOLUTION ACCEPTED? _____ (YES) _____ (NO)

* EXHIBIT A
 ** EXHIBIT B

(COMPLETE ONLY IF RESOLVED PRIOR TO HEARING)

GRIEVANT'S SIGNATURE: _____ DATE: _____

IF UNRESOLVED, YOU ARE ENTITLED TO A HEARING BY THE RESIDENT GRIEVANCE COMMITTEE.

cc: INSTITUTION FILE
 GRIEVANT

RECEIVED

FEB 01 2006

April '97 REV

Inmate Grievance Office

ATTACHMENTS
SECTION "K"

Offender Status Sheet

Date: 08/29/2006

SBI #: 00253918 Name: SHANE K HOPKINS
 Location(s): DCC Level(s): 5 Race: WHITE DOB: 10/05/1973
 AKA: SHANE K HOPKINS
 Offender Type: Sentenced Officer(s):

Level: 5											
Start Date: 03/07/1995		MED: 02/27/2011		STRD: 08/12/2009		ADJ: 07/24/2009		PED:		Statutory Days Earned: 564.00	
CASE#/ Court/ Type	CRA#/ Judge	Charge Desc/ Sen. Type/ Sentence Date	Status/ Eff. Date	Length			Start Dt	MED	STRD	Adj Date	CR Wk
				Y	M	D					
9503004598 U7	IN95060608 Richard R Cooch	BURGLARY 2ND STANDARD 05/24/1996	Current 03/07/1995	2	0	0	03/07/1995	03/06/1997	01/05/1997	01/05/1997	
9503004598 U7	IN95030874 Richard R Cooch	BURGLARY 2ND STANDARD 05/24/1996	Current 03/07/1995	2	0	0	03/06/1997	03/05/1999	10/24/1998	10/24/1998	
9503004598 U7	IN95030883 Richard R Cooch	BURGLARY 2ND STANDARD 05/24/1996	Current 03/07/1995	2	0	0	03/05/1999	03/04/2001	08/12/2000	08/12/2000	
9503004598 U7	IN95030901 Richard R Cooch	BURGLARY 2ND STANDARD 05/24/1996	Current 03/07/1995	2	0	0	03/04/2001	03/03/2003	05/31/2002	05/31/2002	
9503004598 U7	IN95030892 Richard R Cooch	BURGLARY 2ND STANDARD 05/24/1996	Current 03/07/1995	2	0	0	03/03/2003	03/02/2005	03/19/2004	03/19/2004	
9503004598 U7	IN95030903 Richard R Cooch	BURGLARY 2ND STANDARD 05/24/1996	Current 03/07/1995	2	0	0	03/02/2005	03/01/2007	01/05/2006	01/05/2006	
9503004598 U7	IN95030906 Richard R Cooch	BURGLARY 2ND STANDARD 05/24/1996	Current 03/07/1995	2	0	0	03/01/2007	02/28/2009	10/25/2007	10/25/2007	
9503004598 U7	IN95030959 Richard R Cooch	BURGLARY 2ND STANDARD 05/24/1996	Current 03/07/1995	2	0	0	02/28/2009	02/27/2011	08/12/2009	07/24/2009	

Special Conditions:

CRA#	Level	Code	Condition Description	Condition Comments
IN95060608	5	CRT1	Other Conditions:	AS TO IN95-06-0608; SENTENCED TO 2 YEARS LEVEL 5.
IN95030874	5	CRT1	Other Conditions:	AS TO IN95-03-0874; SENTENCED TO 2 YEARS LEVEL 5.
IN95030883	5	CRT1	Other Conditions:	AS TO IN95-03-0883; SENTENCED TO 2 YEARS LEVEL 5.
IN95030901	5	CRT1	Other Conditions:	AS TO IN95-03-0901; SENTENCED TO 2 YEARS LEVEL 5.
IN95030892	5	CRT1	Other Conditions:	AS TO IN95-03-0892; SENTENCED TO 2 YEARS LEVEL 5.
IN95030903	5	CRT1	Other Conditions:	AS TO IN95-03-0903; SENTENCED TO 2 YEARS LEVEL 5.
IN95030906	5	CRT1	Other Conditions:	AS TO IN95-03-0906; SENTENCED TO 8 YEARS LEVEL 5, SUSPENDED AFTER SERVING 2 YEARS FOR 1 YEAR LEVEL 4 HALFWAY HOUSE. FOLLOWED BY 3 YEARS LEVEL 3. FOLLOWED BY 2 YEARS LEVEL 2. LEVEL 4 HOLD AT 5.
IN95030959	5	CRT1	Other Conditions:	AS TO IN95-03-0959; SENTENCED TO 2 YEARS LEVEL 5. FOLLOWED BY 6 YEARS LEVEL 2.

